

CAUSE NO. D-1-GN-20-003795

**PUBLIC CITIZEN, INC.,  
HUGH FITZSIMONS, and  
MOLLY K. ROOKE,  
Plaintiff,**

**V.**

**RAILROAD COMMISSION  
OF TEXAS,  
CHAIRMAN WAYNE CHRISTIAN,  
and COMMISSIONERS  
CHRISTI CRADDICK and  
RYAN SITTON,  
Defendants.**

§ **IN THE DISTRICT COURT**  
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§ **OF TRAVIS COUNTY**  
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§ **53RD JUDICIAL DISTRICT**

**ORIGINAL PETITION  
FOR WRITS OF MANDAMUS AND INJUNCTION**

**I. Nature of the Case**

1. On May 5, 2020, the Railroad Commission of Texas (RRC), under the guise of addressing the COVID 19 pandemic and the Governor’s emergency orders to address the pandemic, issued a series of emergency orders that purported to suspend certain RRC rules. The RRC emergency orders were not preceded with proper notice under the Texas Open Meetings Act, did not comply with the Administrative Procedure Act emergency rule making requirements, exceeded the RRC’s statutory authority, and violated the Texas Constitution. The orders allow abandoned wells to go unplugged, waste pits to go un-remediated, and oil and gas to be injected and stored underground in a formation other than a salt dome. The orders also waive fees and surcharges on multiple activities regulated by the RRC. Most of the RRC’s emergency suspension orders state that

they will be in place for a year, some longer. The orders will have an immediate effect, for example, on Plaintiff Rooke's requests that a blown-out well which spewed volatile chemicals into the air and onto nearby wetlands be fully remedied. The long-term impact of the orders on the environment, including the groundwater upon which Plaintiff Fitzsimons relies, and on our state's fiscal health is incapable of accurate calculation. Discovery will be conducted under Level 2 pursuant to Texas Rules of Civil Procedure Rule 190.3.

## **II. The Parties**

2. Plaintiff Public Citizen, Inc., is a nonprofit, nonpartisan consumer advocacy organization based in Washington, D.C., that champions the public interest before federal and state agencies, legislatures and courts. Public Citizen has had an office located in Austin, Texas since 1984. Public Citizen has long advocated for improvement to the Texas Open Meeting Act and the Public Information laws at the Texas legislature and participates frequently on proposed rules under the Administrative Procedure Act. Public Citizen depends on adequate public notice of proposed rulemaking to participate. Public Citizen may be served in this case through its attorneys of record.

3. Plaintiff Hugh A. ("Sunny") Fitzsimons III, lives and ranches in Dimmit County, Texas, where he raises bison, produces guahillo honey, and grows olives trees. Since 2012, he has been an elected director of the Wintergarden Groundwater Conservation District, which encompasses Dimmit, Zavala, and La Salle Counties. He has been active in protecting the scarce water that lies below

his Shape Ranch in Dimmit County and below surrounding counties. As oil production has increased on the Eagle Ford Shale, the quantity and quality of groundwater already faces serious threats. The RRC suspension orders threaten direct harm. Mr. Fitzsimons is a member of Public Citizen. Mr. Fitzsimons may be served in this case through his attorneys of record.

4. Plaintiff Molly K. Rooke is an individual who owns an interest in, and is one of the active managers of, the family ranch in Refugio County that has been in Ms. Rooke's family since before there was oil and gas development in Texas. The ranch has a number of unplugged abandoned wells despite many years of requests by the Rooke family to plug them. She sought the RRC's assistance with an abandoned well blow out in 2019 that was not fully or properly taken care of on the family ranch. Ms. Rooke has deep concerns and has persisted in efforts to protect their ranch from increased risk of harm to health and safety from the many aging unplugged wells, which she sees as ticking time bombs. If she had known the RRC was going to suspend the rules at issue, she would have attended the May 5 meeting. Ms. Rooke is a member of Public Citizen. Ms. Rooke may be served in this case through her attorneys of record.

5. Defendant Railroad Commission of Texas (RRC) is the state administrative agency with jurisdiction over common carrier pipelines and oil and gas wells and those who operate them in Texas. The RRC is governed by three elected commissioners. The RRC may be served with process through its Executive Director Wei Wang at 1701 North Congress Avenue, Austin, TX 78701, Mr. Wang

may be contacted at (512) 463-7068 and [wei.wang@rrc.texas.gov](mailto:wei.wang@rrc.texas.gov).

6. Defendant Wayne Christian is the Chairman of the RRC. Chairman Christian may be served at the RRC at 1701 North Congress Avenue, Austin, TX 78701. Chairman Christian may be contacted at (512) 463-7131 and [Wayne.Christian@rrc.texas.gov](mailto:Wayne.Christian@rrc.texas.gov) or through legal counsel at (512)463-8870 or [jeremy.hagen@rrc.texas.gov](mailto:jeremy.hagen@rrc.texas.gov).

7. Defendant Christi Craddick is a Commissioner on the RRC. She may be served at the RRC at 1701 North Congress Avenue, Austin, Texas 78701. Commissioner Craddick may be contacted at (512) 463-7140 and [Christi.Craddick@rrc.texas.gov](mailto:Christi.Craddick@rrc.texas.gov).

8. Defendant Ryan Sitton is a Commissioner on the RRC. He may be served at the RRC at 1701 North Congress Avenue, Austin, Texas 78701. Commissioner Sitton may be contacted at (512)463-7144 and [Ryan.Sitton@rrc.texas.gov](mailto:Ryan.Sitton@rrc.texas.gov).

### **III. Venue**

9. Venue for Plaintiffs' claims for relief in the form of mandamus and/or injunction under section 551.142 of the Texas Open Meetings Act (TOMA), Tex. Gov't Code §§51.001 et seq., is proper and mandatory in Travis County. Tex. Civ. Practice & Remedies Code §15.014.

10. Venue for Plaintiffs' rule challenge claims under the Administrative Procedure Act (APA), Tex. Gov't Code §§2001.001 et seq., is proper and mandatory in Travis County. Tex. Gov't Code §2001.038(b).

11. Venue for Plaintiffs' claims that Defendants have acted in excess of their statutory authority and in violation of the Texas Constitution is mandatory in Travis County. Tex. Civ. Practice & Remedies Code §15.014.

#### IV. Jurisdiction

##### A. Jurisdiction under the TOMA

12. Section 551.142 of the TOMA waives sovereign immunity by expressly authorizing an "interested person, including a member of the news media, to bring an action by mandamus or injunction to stop, prevent, or reverse a violation or threatened violation of this chapter [TOMA] by the members of a governmental body."

13. Standing under the TOMA is broader than under the common law. *See City of Donna v. Ramirez*, 548 S.W.3d 26, 34-35 (Tex. App. – Corpus Christi – Edinburg 2017, pet. denied)(citing *Save Our Springs Alliance, Inc. v. Lowry*, 934 S.W.2d 161, 163 (Tex. App.—Austin 1996, orig. proceeding) (per curiam)); *Matagorda Cty. Hosp. Dist. v. City of Palacios*, 47 S.W.3d 96, 102 (Tex. App.—Corpus Christi 2001, no pet.) (and cases cited therein). A TOMA plaintiff need not show that he was affected differently from other members of the general public. *See Curks v. Yarbrough*, 157 S.W.3d 876, 880 (Tex. App.—Houston [14th Dist.] 2005, no pet.); *Save Our Springs Alliance, Inc., v. Lowry*, 934 S.W.2d at 167. The intended beneficiaries of the TOMA are "members of the interested public." *Ramirez*, 548 S.W.3d at 34-35 (citing *City of San Antonio v. Fourth Court of Appeals*, 820 S.W.2d 762, 765 (Tex. 1991)). A plaintiff need only

demonstrate that he shares the general public's interest in ensuring that the protections of TOMA are enforced. *See City of Port Isabel v. Pinnell*, 161 S.W.3d 233, 241 (Tex. App.—Corpus Christi 2005, no pet.).

14. For these reasons, all three Plaintiffs here, Public Citizen, Mr. Fitzsimons, and Ms. Rooke have standing to complain of the RRC's violations of the TOMA.

#### **B. Jurisdiction under the APA**

15. Section 2001.038(a) of the APA waives immunity for lawsuits to challenge the validity or applicability of a rule, including an emergency rule adopted under section 2001.034 of the APA. Tex. Gov't Code §§ 2001.038(a).

16. Standing under section 2001.038 of the APA exists when “it is alleged that the rule or its threatened application interferes with or impairs, or threatens to interfere with or impair, a legal right or privilege of the plaintiff.” Tex. Gov't Code §§ 2001.038(a). As with TOMA standing, this language is broader than the common law concept of standing. Exhaustion of administrative remedies is not a prerequisite to a lawsuit to challenge the applicability or validity of a rule. *See* Tex. Gov't Code §2001.038(d); *City of Sherman v. Public Util. Comm'n*, 643 S.W.2d 681, 682 (Tex. 1983). It is not necessary that the agency have enforced the rule (or here, allowed a regulated operator to ignore the rule) in order to maintain standing. *Texas Alcoholic Beverage Comm'n v. Amusement & Music Operators of Tex., Inc.*, 997 S.W.2d at 660.

17. In this case, both Plaintiff Fitzsimons and Plaintiff Rooke have land that is threatened by the RRC suspension “rule.” As a result, they have standing. *See*

*Texas Rivers Protection Ass'n v. Texas Natural Resource Conservation Commission*, 910 S.W.2d 147 (Tex. App.-Austin 1995, writ denied). Because of their membership in Public Citizen, Public Citizen has associational standing. See *Tex. Dept. of Ins. v. Tex. Ass'n of Health Plans*, 598 S.W.3d 417 (Tex. App. – Austin 2020, no pet. h.); cf. *Save Our Springs Alliance, Inc v. City of Dripping Springs*, 304 S.W.3d 871, 879-880 (Tex. App. – Austin 2010, pet. denied)(organization whose members could not demonstrate the kind of interest in land that was at issue in *Texas Rivers* had representative standing only to pursue TOMA claims).

**18.** In addition, because the RRC adoption of the emergency suspension orders was not preceded by the notice required under the TOMA or the APA, Public Citizen was deprived of the opportunity to request a public hearing under section 2001.029(b). All three Plaintiffs were deprived of the opportunity to submit comments under section 2001.029(a). For these reasons, all three Plaintiffs here, Public Citizen, Mr. Fitzsimons, and Ms. Rooke have standing to complain of the RRC's violations of the APA.

### **C. Jurisdiction to Issue Writs of Mandamus**

**19.** Plaintiffs' claims that the RRC Commissioners exceeded their authority and violated the Texas Constitution are within the jurisdiction of this Court under Article V, section 8, of the Texas Constitution. This Court also has jurisdiction over Defendants Christian, Craddick, and Sitton to stop and or remedy conduct that is *ultra vires*, i.e. without statutory authority, in excess of statutory

authority, and/or have otherwise violated Plaintiffs' constitutional rights, and to issue writs of mandamus and injunction to remedy such violations. *See Tex. Dep't of Transp. v. Sefzik*, 355 S.W.3d 618, 621–22 & n.3 (Tex.2011); *City of El Paso v. Heinrich*, 284 S.W.3d 366, 372 (Tex.2009).

**20.** The provisions of the Texas Constitution at issue here are article I, section 28 (suspension of the law) and Article II, section 1 (separation of powers).

**21.** Plaintiff Fitzsimons and Plaintiff Rooke both own an interest in land that is threatened by the RRC suspension orders. Both of them are members in Public Citizen. As a result, Public Citizen has associational standing with respect to these claims. For these reasons, all three Plaintiffs here, Public Citizen, Mr. Fitzsimons, and Ms. Rooke have standing to complain of the RRC Defendants' acts in excess of their authority and their violations of the Texas Constitution.

## **V. Background Facts**

**22.** Chapter 89 of the Texas Natural Resources Code governs the regulation of abandoned wells. As oil and gas wells become less productive, they are sold to smaller and smaller operators. In many instances, the wells become so non-productive that the operators simply walk away from the wells, which are then often referred to as "orphaned."

**23.** The operators may take some responsibility and "shut in" the well, however, before walking away. But shutting in does not comply with Chapter 89, which requires plugging wells that are inactive when there is no likelihood or intention by the operator that the wells will ever become productive again.



Shutting in a well is a stop-gap measure that can often be reversed, whereas plugging involves pumping drilling mud and concrete into the well so that it will never produce again, and, presumably, be at less risk of contaminating groundwater resources. Shutting in a well is far less costly than plugging it.

**24.** A well that is not producing for a period of twelve months is deemed “inactive.” Tex. Nat. Resources Code §89.002(12). Inactive wells must be plugged in accordance with the RRC rules in place at the time. Tex. Nat. Resources Code §89.022. An operator can obtain an extension of the deadline to plug the inactive well, but only if the operator meets the list of requirements in section 89.023 of the Code. One of those requirements is that the operator maintain the annual reports required under section 91.142 of the Code.

**25.** Under the Natural Resources Code, all operators of oil and gas wells must file annual operational reports and demonstrate financial security. Tex. Nat. Resources Code §91.142. If the operators do not do so, they cannot “perform operations under the jurisdiction” of the RRC. Tex. Nat. Resources Code §91.142(f). When operators file their reports, they must also submit fees, on a sliding scale depending on the number of oil and gas wells they operate. Tex. Nat. Resources Code §91.142(g). Those fees, along with penalties collected by the RRC help fund the RRC’s regulatory efforts and are a source of funds that can be used to plug wells that have been abandoned. Tex. Nat. Res. Code §81.0531(e).

**26.** One of the RRC’s primary duties in the regulation of oil and gas wells is to protect water resources and land. Tex. Nat. Resources Code §89.001. To date,

however, the RRC has committed to plugging only a fraction of the wells that have been abandoned in Texas. The RRC has not required that operators comply with these statutory requirements. With its May 5, 2020 emergency suspension orders, the RRC has also suspended or nullified these provisions of the Natural Resources Code.

**27.** The RRC reports show that, as of 2019, there are over 500 “orphan” or abandoned wells in the area of Plaintiff Rooke’s family ranch, La Rosa Ranch in Refugio County. As of 2019, the RRC had committed, however, to plugging only 33 of those wells. Plaintiff Rooke has dozens of unplugged abandoned wells on her family’s ranch. It is not clear whether any of them have been designated for plugging by the RRC

**28.** Last year, Plaintiff Rooke contacted the RRC with an urgent complaint about a blown-out well on La Rosa Ranch that was spewing a mixture of gas and some liquid in a cloud that was visible to the naked eye. Plaintiff Rooke attempted to stand upwind because of the smell of methane or some other volatile substance. There are wetlands near the blow out. Nearby vegetation was dead.

**29.** Until Plaintiff Rooke contacted Sharon Wilson with Earthworks, who contacted the media, the RRC took no real action. The blown well spewed for at least a day and a half until a RRC contractor did a temporary shut in and replaced the well head. The RRC has not held the operator accountable nor has it put the well on the RRC list of wells to plug. Because of the May 5, 2020

emergency suspension orders, any private remedy Plaintiff Rooke may have is placed in question, as is her right to access RRC funds to reimburse her for going to the expense of plugging the well herself under section 89.048 of the Code.

**30.** Plaintiff Fitzsimons lives and ranches in Dimmit County, Texas, where he raises bison, produces guahillo honey, and grows olives trees. He has been an elected director of the Wintergarden Groundwater Conservation District since 2012. Oil and gas wells have been on his land since 1923.

**31.** In 2011 Dimmit County experienced a "breakout," the escape of carcinogenic frac fluid from an injection well into an abandoned oil well. The sludge that came up the well had the consistency of year-old chocolate pudding and came within a hair's breath of contaminating the Carrizo Aquifer. The lease on the Fitzsimons ranch now has 106 wells that are inactive and must be plugged in order to protect the aquifer. The RRC's suspension of plugging and of plugging requirements by the RRC is both reckless and irresponsible, because once water on a ranch is contaminated, the ranch can no longer function.

**32.** In addition, the Wintergarden Groundwater Conservation District's hydrologist has determined that an oil and gas waste pit has leaked into the aquifer in southern Dimmit County. This determination is especially troubling because the RRC is allowing the suspension of waste pit remediation, a suspension that will exacerbate the contamination.

## VI. Causes of Action

### A. Violations of the TOMA

**33.** Section 551.041 of the Act requires that a governmental body “give written notice of the date, hour, place, and subject of each meeting held by the governmental body.” Tex. Gov’t Code Ann. §551.041 (emphasis added).

**34.** For its May 5, 2020 meeting, the RRC posted the following notice:

189. Consideration of issues and possible action related to the COVID 19 pandemic including but not limited to (1) potential waiver or suspension of applicable statutes, rules, final orders, or other regulatory requirements; and (2) analysis of potential relief or other economic development initiatives.

(Exhibit P-1; RRC Open Meeting Notice for Tuesday, May 5, 2020, p. 16.)

**35.** Nothing in this notice suggests that the RRC will suspend statewide environmental rules. An objective member of the public reading his notice would assume that any rules and statutes, assuming they could legally be suspended, would relate to COVID 19. The notice fails to apprise the public that the meeting would consider suspension of the deadlines to plug wells, clean up waste pits, or to allow the injection of hydrocarbons into underground formations other than salt domes. Nonetheless, at this meeting, the RRC decided to suspend statewide environmental rules. (See Exhibits P-2, P-3, and P-4) The orders were signed and issued that day. (*Id.*)

**36.** In specific, agenda item 189 does not give notice that the RRC will discuss and take possible action to suspend 16 TAC §3.8(d)(4)(H), which governs backfill requirements for authorized pits to protect water and control pollution; 16 TAC

§3.13(d), which provides that casing/tubing exceptions must meet intent of subsection (a)(1) to prevent contamination of usable quality water zones; 16 TAC §3.14(b)(2), which provides that plugging of inactive or dry wells must begin within one year and proceed diligently; 16 TAC §3.78, which imposes fees and financial security requirements; 16 TAC §3.95, which restricts the storage of liquid or liquefied hydrocarbons in salt formations; and 16 TAC §3.107(b), which states that the penalty guidelines for oil and gas violations complies with the requirements of the Texas Natural Resources Code and Texas Water Code.

**37.** The Texas Supreme Court has noted that, under the notice requirements of the Act, “less than full disclosure is not substantial compliance.” *Cox Enterprises, Inc. v. Board of Trustees of Austin Indep. Sch. Dist.*, 706 S.W.2d 956, 960 (Tex.1986). It is not necessary to “state all of the consequences which may necessarily flow from the consideration of the subject stated.” *Texas Turnpike Auth. v. City of Fort Worth*, 554 S.W.2d 675, 676 (Tex.1977) The RRC notice, however, gave no notice of the subject of wholesale exemptions from major environmental rules.

**38.** Section 552.142 of the TOMA expressly authorizes the Court “to stop, prevent, or reverse a violation or threatened violation of this chapter [TOMA] by the members of a governmental body.” Plaintiffs ask that the Court order the RRC not to enforce the three orders adopted until and unless the RRC posts proper notice for the subject.

**B. Violations of the APA**

**39.** A “rule” that must comply with the APA’s procedural requirements is defined as follows:

“Rule”

- (A) means a state agency statement of general applicability that:
  - (i) implements, interprets, or prescribes law or policy; or
  - (ii) describes the procedures or practice requirements of a state agency;
- (B) includes the amendment or repeal of a prior rule; and
- (C) does not include a statement regarding only the internal management or organization of a state agency and not affecting private rights or procedures.

Tex. Gov’t Code §2001.003(6).

**40.** The suspension of an existing rule, even a “temporary” one, constitutes a new rule, or, in the alternative, a modification, amendment, or repeal of a prior rule under this section if it is “a statement of *general* applicability that ... implements, interprets, or prescribes law or policy.” Tex. Gov’t Code §2001.003(6)(A)(1). A state agency cannot avoid jurisdiction under section 2001.038 simply by ignoring the APA rule making procedures altogether by calling a rule an “order.” See *El Paso Hosp. Dist. v. Texas Health & Human Servs. Comm’n*, 247 S.W.3d 709, 714 (Tex. 2008) (commission’s cutoff date for submitting paid-claims data to determine Medicaid reimbursement rates was “rule” because it interpreted and applied particular statute and affected all

hospitals receiving Medicaid reimbursements); *Teladoc, Inc. v. Texas Med. Bd.*, 453 S.W.3d 606, 620 (Tex. App.—Austin 2014, pet. denied) (Texas Medical Board’s pronouncements in letter sent to health-care business “are tantamount to amendments to the existing text of” rule); *Combs v. Entertainment Publ’ns, Inc.*, 292 S.W.3d 712, 721 (Tex. App.—Austin 2009, no pet.) (letters Comptroller issued to fundraising firm constituted “rule” because they informed recipients of how Comptroller would enforce and construe tax statute concerning who is considered “sales agent”); *Texas Alcoholic Beverage Comm’n v. Amusement & Music Operators of Tex., Inc.*, 997 S.W.2d 651, 660 (Tex. App.—Austin 1999, pet. dismissed w.o.j.) (agency memorandum was a “rule” because it imposed binding instructions affecting private rights of all similarly situated persons).

**41.** The RRC labeled its orders as “temporary exceptions” to its administrative rules. (See Exhibit P-2, “Temporary Exceptions to Statewide Rules 8, 13 14 and 107”; Exhibit P-3, “Temporary Exceptions to Certain Fees & Surcharges required by Statewide Rule 76”; and Exhibit P-4, “Temporary Exceptions to Statewide Rule 95”) The text of the orders, however, was clear that the orders “hereby grant” statewide exceptions. In other words, they are statements of general applicability, not exceptions for a particular operator based on that operator’s particular circumstances. Other than the Temporary Exception to Statewide Rule 95, these orders require only that the operator notify the RRC that the operator is relying on the orders.

42. The effect of the orders is to extend deadlines, which amends the existing deadlines in the existing RRC rules. In addition, the fee and surcharge exceptions are not simply a delay in payment, they are a waiver of payment of the fees and surcharges at issue, a waiver in place until December 31, 2020. (Exhibit P-3) That constitutes a modification of the existing rules.

43. Likewise, the order titled "Temporary Exception to Statewide Rule 95" allows the underground storage of crude oil in geological formations other than salt domes or underground crude oil storage facilities. The Rule 95 "exception" states that it is in place for a year, but that crude oil stored under order of suspension need not be removed for five years. (Exhibit P-4.) And these "exceptions" are not exceptions for particular operators with unique situations -- the exceptions amend the statewide rules as to all operators.

44. For these reasons, the three emergency suspension orders adopted by the RRC at its May 5, 2020 meeting are "rules" within the meaning of the APA. That means that they are *de facto* rules -- not exceptions to rules. They were adopted without 30 days prior publication in the *Texas Register* of the RRC's intent to adopt them required under APA section 2001.023, without the content of the notice required under APA section 2001.024, without the regulatory analysis required for major environmental rules under APA section 2001.0225, without the public comment required under APA section 2001.029, and without the statement of reasons for or against adoption required under APA section 2001.030,



45. In addition, APA section 2001.034 establishes a procedure by which state agencies may adopt emergency rules. Tex. Gov't Code §2001.034(a). An emergency rule, however, may only be effective for 120 days, with one renewal for an additional 60 days. Tex. Gov't Code §2001.034(c) Emergency rules, along with the required statement of the reasons for the emergency, must be filed with the Secretary of State for publication in the *Texas Register*. Tex. Gov't Code §§ 2001.034(d). The RRC has attempted to circumvent these statutory limits on the use of emergency rules.

46. A rule not adopted in substantial compliance with sections 2001.0225 through 2001.034 of the APA is voidable. Tex. Gov't Code §2001.035(a). Plaintiffs ask that the Court declare void the three emergency suspension orders as invalid rules and/or prohibit the RRC from implementing the orders until and unless the RRC complies with the APA notice and comment rule making requirements.

### **C. Violation of the Texas Constitution**

47. Texas embraces our country's representative democracy with three departments of government (the Judiciary, the Legislature, and the Executive) that act as checks and balances on each other. Article II, section 1, of the Texas Constitution requires the separation of powers of those departments. In addition, article I, section 28, of the Texas Constitution provides

No power of suspending laws in this State shall be exercised except by the Legislature.

Tex. Const. Art. I, §28.

**48.** Former versions of the Texas Constitution included the phrase “for its authority” which might have authorized a delegation by the Texas Legislature of the power to suspend the law. The deletion of that phrase, however, took with it the legislature’s authority to delegate the power to suspend state law. *Burton v. Dupree*, 19 Tex. Civ. App. 275, 46 S.W. 272 (1898, no writ). As a result, no official or agency in the Executive Department, including the Governor of Texas, may suspend the law, and any effort by the Texas Legislature to confer such power by statute runs afoul of the Texas Constitution.

**49.** As a result, action to suspend the law pursuant to section 418.016 of the Texas Government Code, on which the Governor’s emergency orders are based, is unconstitutional. An “energy emergency” is defined expressly under section 418.004(3) and references a shortage, not a glut, of oil and gas. In addition, the Governor’s authority to delegate certain tasks under Chapter 418 must be by specific, limited delegation orders under section 418.015 (c). As a result, the RRC could not rely on an emergency order from the Governor.

**50.** Moreover, nothing in the Texas Constitution, the Texas statutes, or the Governor’s various emergency orders purports to authorize the RRC to suspend its own enabling statute or the statutes that govern the procedures by which the RRC must promulgate its substantive regulatory rules.

**51.** The TRRC orders adopted at the May 5th meeting purport only to provide exceptions to the rules, not to suspend the rules themselves or the statutes upon

which they are based. Because many of the rules, however, track the requirements of the Natural Resources Code and/or the Texas Water Code, the effect is the same – the suspension of requirements of the TOMA, the APA, and the Texas Natural Resources Code. As a result, the RRC orders violate the Texas Constitution.

**52.** Because those rules implement the RRC's enabling statute, their suspension has the effect of suspending the statute. For example, a well that is not producing for a period of twelve months is deemed "inactive." Tex. Nat. Resources Code §89.002(12). Inactive wells must be plugged before the operator's annual filing deadline. Tex. Nat. Resources Code §89.022(a). An operator can obtain an extension of the deadline to plug the inactive well, but only if the operator meets the list of requirements in section 89.023 of the Code. One of those requirements is that the operator maintain the annual reports required under section 91.142 of the Code. Under the Natural Resources Code, all operators of oil and gas wells must file annual operational reports and demonstrate financial security. Tex. Nat. Resources Code §91.142. If the operators do not do so, they cannot "perform operations under the jurisdiction" of the RRC. Tex. Nat. Resources Code §91.142(f). The RRC may promulgate rules that implement these and other provisions, but the RRC cannot suspend them.

**53.** One of the RRC's primary duties in the regulation of oil and gas wells is to protect water resources and land. Tex. Nat. Resources Code §89.001. To date, however, the RRC has committed to plugging only a fraction of the wells that

have been abandoned in Texas. The RRC has not required that operators comply with these statutory provisions. With its May 5, 2020 emergency suspension orders, the RRC has also suspended or nullified these provisions of the Natural Resources Code.

54. Plaintiffs Public Citizen, Fitzsimons, and Rooke ask that the Court issue writs of mandamus and/or of injunction to prevent the RRC Defendants from implementing the three emergency orders or from otherwise suspending the provisions of the Texas Natural Resources Code the RRC is charged with enforcing.

#### **VII. Ancillary Relief Requested**

55. The purpose of a temporary restraining order and a temporary injunction is to preserve the *status quo* pending trial on the merits. *Butnaru v. Ford Motor Co.*, 84 S.W.3d 198, 204 (Tex. 2002). The “status quo” is the “last, actual, peaceable, non-contested status which preceded the pending controversy.” *In re Newton*, 146 S.W.3d 648, 651 (Tex. 2004) (orig. proceeding). The last non-contested status was before the Governor’s March 13, 2020 disaster declaration and before the three RRC May 5, 2020 emergency orders were issued.

56. To obtain a temporary injunction, the applicant must plead and prove three specific elements: (1) a cause of action against the defendant; (2) a probable right to the relief sought; and (3) a probable, imminent, and irreparable injury in the interim. *Butnaru*, 84 S.W.3d at 204. Plaintiffs meet that standard here.

57. The TOMA and APA causes of action here have clear waivers of immunity

and well-established standards the RRC has violated. The fact that the RRC Chairman and Commissioners have exceeded their authority and improperly suspended the TOMA and, in particular, the APA, is also clear. The effort to pass “exceptions” to rules is a thinly disguised effort to suspend the protections in the Natural Resources Code designed to protect water and land.

58. The harm threatened is irreparable. Once groundwater is contaminated, the land has lost its value and the intrinsic things that make it special. Like a home condemned, once it is torn down, the harm cannot be remedied in monetary terms. Any private remedy that Plaintiffs Fitzsimons and Rooke might have had has been rendered useless by the RRC orders, which enable the operators to hide behind those orders. Finally, the harm threatened is imminent and cannot be remedied through the RRC because of the limits on the waiver of immunity for these causes of action and the difficulty of recovering damages against state agencies and officials.

#### **PRAYER**

For these reasons, Public Citizen, Inc., Hugh Fitzsimons, and Molly Rooke ask that the court issue citation to Defendants, the Railroad Commission of Texas, Chairman Christian, Commissioner Craddick, and Commissioner Sitton, to appear and answer, and grant the requests for writ of mandamus and/or injunction, including a temporary restraining order as requested herein, as necessary to preserve the *status quo*, award Plaintiffs their court costs, and grant all other relief to which Plaintiffs show themselves to be entitled.

Respectfully submitted,

/s/ Jennifer S. Riggs

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### **Notice of Intent to Seek TRO**

Pursuant to the Local Rules of the Travis County District Courts, notice of Plaintiffs' intent to seek a temporary restraining order has been provided to the following:

Mr. Alex C. Schoch  
General Counsel for Texas RRC  
1701 Congress Ave.  
Austin, Texas 78701  
512 463-6715  
[alex.schoch@rrc.texas.gov](mailto:alex.schoch@rrc.texas.gov)  
Office of the General Counsel  
General Law: 512-463-7149  
Legal Enforcement: 512-463-6762

And to the

Office of the Attorney General

/s/ Jennifer S. Riggs

Jennifer S. Riggs

NOTICE OF MEETING

RAILROAD COMMISSION OF TEXAS

On March 16, 2020, in accordance with section 418.016 of the Texas Government Code, Governor Abbott suspended various provisions of the Open Meetings Act that require government officials and members of the public to be physically present at a specified meeting location. Therefore, pursuant to the Governor's action and Texas Government Code, Chapter 551, the following matters will be taken up for discussion and/or decision by the Railroad Commission of Texas via virtual conference, on Tuesday, May 5, 2020, commencing at 9:30 a.m.

**Public Access to Meeting.** Due to the Governor's suspension, the public will not be able to attend the open meeting in person. Instead, the public may view the meeting live on the Railroad Commission's website at <https://rrc.texas.gov/general-counsel/open-meetings/> by clicking on the "Webcast" link or by going directly to [http://www.adminmonitor.com/tx/rrc/open\\_meeting/](http://www.adminmonitor.com/tx/rrc/open_meeting/). If you would like to view the meeting but are not able to access the Commission's website, please call the following number for instructions on how to listen to the meeting by telephone: 512-463-7855. To ensure you receive instructions in time, please call before 8:30 a.m. on May 5th.

**Register to Address the Commission on an Agenda Item.** If you would like to register to address the Commission on an agenda item numbered below, please call 512-463-7865 or email [RRCconference@rrc.texas.gov](mailto:RRCconference@rrc.texas.gov). Whether registering by phone or email, please include the following:

- (1) the agenda item number;
- (2) your name and affiliation;
- (3) your address;
- (4) your phone number;
- (5) whom you represent (self or company/client); and
- (6) whether you are available for questions from the Commissioners on a specific item on the agenda or are requesting to address the Commission during the Public Input item.

You must register **no later than noon (12 p.m.) on May 4th**. Late registration could result in loss of the opportunity to participate on your item. If you do not wish to address the Commission but would like a question or comment read aloud during the Public Input agenda item, you may email your question or comment to [RRCconference@rrc.texas.gov](mailto:RRCconference@rrc.texas.gov). To ensure your question or comment is received, please submit your email before noon (12 p.m.) on May 4th.

**Auxiliary Aids or Services for Persons with a Disability.** If you would like access to the videoconference meeting and you require auxiliary aids or services, please notify the Commission as far in advance as possible, **but no later than Friday, May 1st**, so that appropriate arrangements can be made. Requests may be made by telephone at 512-463-6981 or TDD No. 512-463-7284; or by e-mail to [ADA@rrc.texas.gov](mailto:ADA@rrc.texas.gov).



## HEARINGS DIVISION

### SURFACE MINING AND RECLAMATION

1. SMRD C20-0010-SC-50-F: Application by Luminant Mining Company LLC for release of Phase I reclamation obligations for 969.7 acres, Permit No. 50C, Kosse Mine, Limestone and Robertson Counties, Texas.
2. SMRD C20-0002-SC-11-F: Application by San Miguel Electric Cooperative, Inc. for release of Phase I reclamation obligations for 217.0 acres, Permit No. 11G, San Miguel Lignite Mine, Atascosa and McMullen Counties, Texas.

### OIL AND GAS

3. O&G 06-0321223: Complaint by Dwayne McQueen, Trustee of the Terry Lynn Smith Trust and Kingdom of God Resources E&P Company LLC that Zarvona Energy LLC (Operator No. 950523) does not have a good faith claim to operate the Wheat Minerals Trust Well No. 1, (Gas ID No. 207709) Brookeland (Austin Chalk, 8800) Field, Tyler County, Texas.
4. O&G 06-0321407: Complaint by Dwayne McQueen, Trustee of the Terry Lynn Smith Trust that Anadarko E&P Onshore LLC (Operator No. 020528) does not have a good faith claim to operate the Wheat Mineral Trust Well No. 2 (Gas ID No. 212598), Brookeland (Austin Chalk, 8800) Field, Tyler County, Texas.
5. O&G 20-0323829: Application of CE Energy LLC (Operator No. 140697) for unrestricted renewal of Its P-5 and to contest the staff determination that its P-5 cannot be renewed because it has not complied with the inactive well requirements of 16 TAC §3.15.
6. O&G 08-0320870: Application of NGL Water Solutions Permian, LLC (Operator No. 609265) pursuant to 16 TAC §3.9 for a commercial permit to dispose of oil and gas waste by injection into a porous formation not productive of oil or gas for the Central Reeves (46177) Lease, Well No. 3SW, Quito, West (Cherry Canyon) Field, Reeves County, Texas.
7. O&G 08-0320871: Application of NGL Water Solutions Permian, LLC (Operator No. 609265) pursuant to 16 TAC §3.9 for a commercial permit to dispose of oil and gas waste by injection into a porous formation not productive of oil or gas for the Central Reeves (46177) Lease, Well No. 4SW, Quito, West (Cherry Canyon) Field, Reeves County, Texas.
8. O&G 08-0320872: Application of NGL Water Solutions Permian, LLC (Operator No. 609265) pursuant to 16 TAC §3.9 for a commercial permit to dispose of oil and gas waste by injection into a porous formation not productive of oil or gas for the Central Reeves (46177) Lease, Well No. 5SW, Quito, West (Cherry Canyon) Field, Reeves County, Texas.
9. O&G 20-0325155: In Re: P-5 Organization Report of NHRG Inc (Operator No. 598344); Motion for Rehearing.



10. O&G 20-0325157: In Re: P-5 Organization Report of Property Development Group, Inc. (Operator No. 681459); Motion for Rehearing.
11. O&G 20-0325165: In Re: P-5 Organization Report of US. Fuels, Inc. (Operator No. 879264); Motion for Rehearing.

**OIL AND GAS CONSENT AGENDA** (30 items; numbers 12 - 41)

12. OG-20-00002402: Application of Hilcorp Energy Company (Operator No. 38530) to consider amending the field rules for the Tom O'Connor (5800) Field, Refugio County, Texas; District 02.
13. OG-19-00001032: Application of WPX Energy Permian, LLC (Operator No. 942623) for an exception to 16 TAC §3.32 for the CBR 33-28-56-1 CFP, Phantom (Wolfcamp) Field, Loving County, Texas, District 08.
14. OG-19-00001033: Application of WPX Energy Permian, LLC (Operator No. 942623) for an exception to 16 TAC §3.32 for the Pecos 39 CFP, Phantom (Wolfcamp) Field, Loving County, Texas, District 08.
15. OG-19-00001035: Application of WPX Energy Permian, LLC (Operator No. 942623) for an exception to 16 TAC §3.32 for the Maisie State 10 (Gas ID No. 283232) Lease, Well No. 2H, Phantom (Wolfcamp) Field, Reeves County, Texas, District 08.
16. OG-19-00001091: Application of Tall City Operating III LLC (Operator No. 835518) for an exception to 16 TAC §3.32 for Oliver 13-24 Lease, Well No. 2H, Phantom (Wolfcamp) Field, Reeves County, Texas, District 08.
17. OG-19-00001392: Application of Tall City Operating III LLC (Operator No. 835518) for an exception to 16 TAC §3.32 for Founders Johnson State Lease, Well No. 1H, Phantom (Wolfcamp) Field, Reeves County, Texas, District 08.
18. OG-19-00001393: Application of Tall City Operating III LLC (Operator No. 835518) for an exception to 16 TAC §3.32 for Oliver 13-24 Lease, Well No. 1H, Phantom (Wolfcamp) Field, Reeves County, Texas, District 08.
19. O&G 08-0317786: Application of Pioneer Natural Resources USA, Inc. (Operator No. 665748) for an exception to 16 TAC §3.32 for Various Well Batteries, Spraberry (Trend Area) Field, Martin and Midland Counties, Texas.
20. OG-19-00002101: Complaint filed by Randall Christian that Acirema Corporation (Operator No. 003577) does not have a good faith claim to operate the Christian, B. C. (Fair) (06573) Lease, All Wells, East Texas Field, Gregg County, Texas; District 6E.
21. OG-19-00002102: Complaint filed by Randall Christian that Acirema Corporation (Operator No. 003577) does not have a good faith claim to operate the Christian -A- (06737) Lease, All Wells, East Texas Field, Gregg County, Texas; District 6E.

22. O&G 20-0325144: In Re: P-5 Organization Report of DPMP Energy LLC (Operator No. 227740); Motion for Rehearing.
23. O&G 8A-0326019: OXY USA WTP LP for authority pursuant to 16 TAC §3.50 to approve or certify an EOR project for the Willard Unit (#19308), Wasson (95397 001) Field, Yoakum County, Texas.
24. O&G 7C-0325808: SM Energy Company for authority pursuant to 16 TAC §3.50 to approve or certify an EOR project for the Kira (#15818) Lease, Spraberry (Trend Area) (8529 200) Field, Upton County, Texas.
25. O&G 8A-0324270: Kinder Morgan Production Co. LLC for authority pursuant to 16 TAC §3.50 to approve or certify an EOR project for the SACROC Unit, Kelly-Snyder (48583 001) Field, Scurry County, Texas.
26. O&G 01-0321554 SM Energy Company for the recommendation of a tight gas formation pursuant to 16 TAC §3.101 for the Lorenzo (Austin Chalk) (54928 500) Field, Webb County, Texas.
27. O&G 01-0326101 SM Energy Company for the recommendation of a tight gas formation pursuant to 16 TAC §3.101 for the Lorenzo (Austin Chalk) (54928 500) Field, Webb County, Texas.
28. O&G 04-0324009 SM Energy Company for the recommendation of a tight gas formation pursuant to 16 TAC §3.101 for the Chupadero Creek (Pearsall) (18150 500) Field, Webb County, Texas.
29. O&G 02-0324833 Unit Petroleum Company for the recommendation of a tight gas formation pursuant to 16 TAC §3.101 for the Fifteen Mile Creek (Wilcox) (30802 400) Field, Goliad County, Texas.
30. O&G 08-0324510 Charger Shale Oil Operating, LLC for the recommendation of a tight gas formation pursuant to 16 TAC §3.101 for the Ford, West (Wolfcamp) (31913 800) Field, Culberson County, Texas.
31. O&G 08-0324511 Charger Shale Oil Operating, LLC for the recommendation of a tight gas formation pursuant to 16 TAC §3.101 for the Ford, West (Wolfcamp) (31913 800) Field, Culberson County, Texas.
32. O&G 08-0325719 APR Operating, LLC for the recommendation of a tight gas formation pursuant to 16 TAC §3.101 for the Ford, West (Wolfcamp) (31913 800) Field, Culberson County, Texas.
33. O&G 08-0325479 APR Operating, LLC for the recommendation of a tight gas formation pursuant to 16 TAC §3.101 for the Ford, West (Wolfcamp) (31913 800) Field, Culberson County, Texas.

34. O&G 08-0320620 Zarvona Energy, LLC for the recommendation of a tight gas formation pursuant to 16 TAC §3.101 for the Emma (Barnett Shale) (28899 040) Field and the Emma (Mississippian) (28899 581) Field, Andrews County, Texas.
35. O&G 08-0321553: Chevron U.S.A., Inc. for the recommendation of a tight gas formation pursuant to 16 TAC §3.101 for the Wolfcamp Formation, Ford, West (Wolfcamp) (31913 800) Field, Culberson County, Texas.
36. O&G. 10-0322373: LE Norman Operating, LLC for the recommendation of a tight gas formation pursuant to 16 TAC §3.101 for the Cottage Grove Formation, Mills Ranch (Granite Wash Cons.) (61691 235) Field, Wheeler County, Texas.
37. O&G 10-0322379: LE Norman Operating, LLC for the recommendation of a tight gas formation pursuant to 16 TAC §3.101 for the Cottage Grove Formation, Mills Ranch (Granite Wash Cons.) (61691235) Field, Wheeler County, Texas.
38. O&G 10-0324285 Templar Operating LLC for the recommendation of a tight gas formation pursuant to 16 TAC §3.101 for the Douglas Formation, Hemphill (Douglas) (40311 100) Field, Hemphill County, Texas.
39. O&G 10-0325482 Templar Operating LLC for the recommendation of a tight gas formation pursuant to 16 TAC §3.101 for the Douglas Formation, Hemphill (Douglas) (40311 100) Field, Hemphill County, Texas.
40. O&G 10-0325483 Templar Operating LLC for the recommendation of a tight gas formation pursuant to 16 TAC §3.101 for the Douglas Formation, Hemphill (Douglas) (40311 100) Field, Hemphill County, Texas.
41. O&G 10-0325484: Templar Operating LLC for the recommendation of a tight gas formation pursuant to 16 TAC §3.101 for the Douglas Formation, Hemphill (Douglas) (40311 100) Field, Hemphill County, Texas.

#### OFFICE OF GENERAL COUNSEL

#### MASTER DEFAULT ORDERS (21 items; numbers 42 - 62)

42. O&G 04-0317833: Enforcement action against Whitesands Operating, L.L.C. (Operator No. 919650) for violation of Statewide Rules on the Shoemake, E. C., et al Lease, Well No. 1 (RRC ID No. 011962), McAllen-Pharr (Consolidated) Field, Hidalgo County, Texas. Violation of 16 TAC §3.8(b) and 3.8(d)(1).

43. O&G 00001299: Enforcement action against Zaza Energy, LLC (Operator No. 950545) for Violation of Statewide Rules on the Stingray Lease, Well No. A 1RE (RRC ID No. 03-27356), Gibbs Bros. (Buda) Field, and True Grit (03-26439) Lease, Well No. 1, Fort Trinidad, East (Buda) Field, Walker County, Texas. Violation of 16 TAC §§3.3(1), 3.3(2), 3.3(3), and 3.14(b)(2).
44. O&G 00001300: Enforcement action against Zaza Energy, LLC (Operator No. 950545) for Violation of Statewide Rules on the Josey Wales (05-04076) Lease, Well No. 1, Aguila Vado (Eagleford) Field, Walker County, Texas. Violation of 16 TAC §§3.3(1) and 3.14(b)(2).
45. O&G 00001302: Enforcement action against Zaza Energy, LLC (Operator No. 950545) for Violation of Statewide Rules on the Commodore (03-26427) Lease, Well No. A 1, Gibbs Bros. (Buda) Field, Wales, Josey (03-26497) Lease, Well No. 1 HR, Fort Trinidad, East (Buda) Field, and Gibbs Brothers Lease, Well No. 1H (RRC ID No. 03-262753), Wildcat Field, Walker County, Texas. Violation of 16 TAC §§3.3(1), 3.3(2), 3.3(3), and 3.14(b)(2).
46. O&G 00001401: Enforcement action against Everett, William, Gary, Sole Proprietor, Baja Production (Operator No. 044650) for Violation of Statewide Rules on the Alvord-Clower Unit Lease, Well No. 1 (RRC ID No. 09-101102), Alvord (Atoka Conglomerate) Field, Wise County, Texas. Violation of 16 TAC §§3.8(d)(1), 3.14(b)(2), 3.17(a), and 3.21(i).
47. O&G 00001490: Enforcement action against Edge Oil and Gas, LLC (Operator No. 243206) for Violation of Statewide Rules on the Canon-Whitney (8A-19186) Lease, Well No. 1, Jo-Mill (Fusselman) Field, Dawson County, Texas. Violation of 16 TAC §3.14(b)(2).
48. O&G 00001760: Enforcement action against KNT Enterprises, LLC (Operator No. 473440) for Violation of Statewide Rules on the Oval's, Lewis (06-15568) Lease, Well No. 4, Huntington Field, Angelina County, Texas. Violation of 16 TAC §3.14(b)(2).
49. O&G 00001880: Enforcement action against Edge Oil and Gas, LLC (Operator No. 243206) for Violation of Statewide Rules on the Logsdon (7B-23228) Lease, Well Nos. 1 and 2, Hickman Haven (Tannehill) Field, Jones County, Texas. Violation of 16 TAC §§3.3(2), 3.3(3), 3.8(d)(1), and 3.14(b)(2).
50. O&G 00001901: Enforcement action against Camoil, Inc (Operator No. 127449) for Violation of Statewide Rules on the Knight Lease, Well No. 1 (RRC ID No. 02-154194), Provident City (4000, East) Field, Wharton County, Texas. Violation of 16 TAC §3.14(b)(2).
51. O&G 00001980: Enforcement action against Ashtola Exploration Company, Inc. (Operator No. 035060) for Violation of Statewide Rules on the Lee "1306" (7B-29956) Lease, Well No. 1, Jerald Cecil (Caddo) Field, Throckmorton County, Texas. Violation of 16 TAC §3.14(b)(2).
52. Fine Line Safety 180010: Enforcement action against Ashtola Exploration Company, Inc. (Operator No. 035060) for Violation of Statewide Rules on Permit No. 08421, Maverick County, Texas. Violation of 16 TAC §§3.70(1) and 3.70(l).

53. Pipeline Safety 180083: Enforcement action against Omega Energy, LLC (Operator No. 6226571) for Violation of Statewide Rules on Permit No. 01933, Limestone County, Texas. Violation of 16 TAC §§3.70(1) and 3.70(l).
54. Pipeline Safety 180091: Enforcement action against Haley, Patrick R., Sole Proprietor, Petro Haley (Operator No. 660062) for Violation of Statewide Rules on Permit No. 06174, Hutchinson County, Texas. Violation of 16 TAC §§3.70(1) and 3.70(l).
55. Pipeline Safety 180092: Enforcement action against Petrogen, Incorporated (Operator No. 660277) for Violation of Statewide Rules on Permit No. 07363, Jim Wells County, Texas. Violation of 16 TAC §§3.70(1) and 3.70(l).
56. Pipeline Safety 180102: Enforcement action against Radius Operating, LLC (Operator No. 687835) for Violation of Statewide Rules on Permit No. 04970, Jasper and Angelina Counties, Texas. Violation of 16 TAC §§3.70(1) and 3.70(l).
57. Pipeline Safety 180104: Enforcement action against Regency Energy, Inc. (Operator No. 698761) for Violation of Statewide Rules on Permit No. 03243, Alameda, Bexar, and Medina Counties, Texas. Violation of 16 TAC §§3.70(1) and 3.70(l).
58. Pipeline Safety 180105: Enforcement action against Rice, James D., Sole Proprietor, Rice Drilling Company (Operator No. 706685) for Violation of Statewide Rules on Permit No. 01928, Coleman County, Texas. Violation of 16 TAC §§3.70(1) and 3.70(l).
59. Pipeline Safety 180112: Enforcement action against Sage Creek Energy Partners, LLC (Operator No. 743219) for Violation of Statewide Rules on Permit No. 08796, Anderson County, Texas. Violation of 16 TAC §§3.70(1) and 3.70(l).
60. Pipeline Safety 180123: Enforcement action against Skybridge Energy LLC (Operator No. 786419) for Violation of Statewide Rules on Permit No. 03387, Pecos County, Texas. Violation of 16 TAC §§3.70(1) and 3.70(l).
61. Pipeline Safety 180128: Enforcement action against Springfield Oil Services, Inc. (Operator No. 810580) for Violation of Statewide Rules on Permit No. 05448, Clay County, Texas. Violation of 16 TAC §§3.70(1) and 3.70(l).
62. Pipeline Safety 180132: Enforcement action against Sun River Operating Inc. (Operator No. 829434) for Violation of Statewide Rules on Permit Nos. 08255 and 08256, Houston and Angelina Counties, Texas. Violation of 16 TAC §§3.70(1) and 3.70(l).

**AGREED ENFORCEMENT ORDERS (125 items; numbers 63 - 187)**

63. O&G 01-0320346: CEI Operating LLC (Operator No. 140718) enforcement action regarding R.V.S. Oil Unit (12889) Lease, Well No. 1, Pilgrim (Austin Chalk) Field, Gonzales County, Texas. Violation of 16 TAC §3.14(b)(2).

64. O&G 01-0312683: Cibolo Energy Operating, Inc. (Operator No. 153393) enforcement action regarding Yoast (15030) Lease, Well Nos. 2, 3, 4, 5, 7, 9W, 10W, and 11, Yoast Field, Bastrop County, Texas. Violation of 16 TAC §§3.3(2), 3.8(d)(1), 3.14(b)(2), 3.16(b), and 3.73(i).
65. O&G 01-0314976: CEI Operating LLC (Operator No. 140718) enforcement action regarding Jim Davis Unit (12642) Lease, Well No. 1, Pilgrim (Austin Chalk) Field, Gonzales County, Texas. Violation of 16 TAC §§3.14(b)(2) and 3.21(i).
66. O&G 01-0320323: Cibolo Energy Operating, Inc. (Operator No. 153393) enforcement action regarding Carrico (05538) Lease, Well Nos. 1H, 3, and 4H, Pearsall (Austin Chalk) Field, Frio County, Texas. Violation of 16 TAC §§3.13(a)(6)(A) and 3.14(b)(2).
67. O&G 7B-0318274: Jadel Energy LLC (Operator No. 429541) enforcement action regarding Stephens (23390) Lease, Well No. 1, Brown County Regular Field, Brown County, Texas. Violation of 16 TAC §§3.3(1), 3.3(2), and 3.14(b)(2).
68. O&G 7B-0322361: Wrage Energy Services, LLC (Operator No. 942628) enforcement action regarding Leonard (31812) Lease, Well No. 5E, Valera, 1 W (Gardner) Field, Coleman County, Texas. Violation of 16 TAC §§3.3(2), 3.8(d)(1), and 3.17(a).
69. O&G 08-0316924: 7S Oil & Gas, LLC (Operator No. 934992) enforcement action regarding Olix -A- (26020) Lease, Well Nos. 1, 2, 3, 4, 5, 6, 18, 25, and 27, Payton Field, Pecos County, Texas. Violation of 16 TAC §§3.8(d)(1), 3.13(a)(6)(A), and 3.14(b)(2).
70. O&G 00001222: TAM2 Squared Energy Services, LLC (Operator No. 835624) enforcement action regarding Powers, V.A. & A.W. (7B-11346) Lease, Well No. 2, Eska (Ellen) Field, Shackelford County, Texas. Violation of 16 TAC §§3.8(d)(1) and 3.9(9)(B).
71. O&G 00001294: Viceroy Petroleum LP (Operator No. 885041) enforcement action regarding Cities Services Fee Lease, Well No. 1951 (Drilling Permit No. 854473), Blue Ridge Field, Fort Bend County, Texas. Violation of 16 TAC §3.32(d)(2).
72. LP-Gas 00002845: Amerigas Propane, LP (License No. 09670) enforcement action regarding UPS Supply Chain Solutions, 417 Union Pacific Blvd., Laredo, Webb County, Texas. Violation of 16 TAC §9.143(a).
73. LP-Gas 00002847: Amerigas Propane, LP (License No. 09670) enforcement action regarding Alfredo Casso, 14101 Transportation Ave., Laredo, Webb County, Texas. Violation of 16 TAC §9.401.
74. LP-Gas 00002848: Amerigas Propane, LP (License No. 09670) enforcement action regarding Home Depot #518, 601 North Creek Dr, Sherman, Grayson County, Texas. Violation of 16 TAC §9.401.
75. Damage Prevention 021688: Venus Construction enforcement action for violation of 16 TAC §§18.10(b) and 18.11(b), at 1302 Central Ave., Denton, Denton County, Texas.

76. Damage Prevention 042101: Venus Construction enforcement action for violation of 16 TAC §18.3(a), at Lake Moss (Lakewood Land Ln.), Little Elm, Denton County, Texas.
77. Damage Prevention 052343: Templar Electric, LLC enforcement action for two violations of 16 TAC §§18.11(b), and 18.3(a), at 814 Prairie Brook Ct., Houston, Harris County, Texas.
78. Damage Prevention 061990: MP Nexlevel, LLC enforcement action for violation of 16 TAC §18.3(e), at 7979 Antoine Dr. (W. Gulf Band Rd.), Houston, Harris County, Texas.
79. Damage Prevention 063046: Construction Service enforcement action for two violations of 16 TAC §§18.11(b), and 18.3(a), at Two Creeks (Parten Ranch Pkwy.), Austin, Travis County, Texas.
80. Damage Prevention 064179: City of La Marque enforcement action for two violations of 16 TAC §§18.11(b), and 18.3(a), at 2006 12th Ave., La Marque, Galveston County, Texas.
81. Damage Prevention 064207: Linetec Services enforcement action for two violations of 16 TAC §§18.11(b), and 18.3(a), at 1422 FM 2854, Conroe, Montgomery County, Texas.
82. Damage Prevention 064344: Primoris T&D enforcement action for violation of 16 TAC §18.4(a), at 540 Aqua Dr. (Northlake Dr.), Dallas, Dallas County, Texas.
83. Damage Prevention 064351: City of Ferris enforcement action for violation of 16 TAC §18.10(b), at 113 S. Main (W. Fifth St.), Ferris, Ellis County, Texas.
84. Damage Prevention 064478: Centerpoint Energy Entex enforcement action for violation of 16 TAC §18.8(a), at Green Plaza (Plaza Verde), Houston, Harris County, Texas.
85. Damage Prevention 064480: Visionary Sales Environments enforcement action for two violations of 16 TAC §§18.11(b), at 612 Lake Cove Dr. (Sparrow Dr.), Little Elm, Denton County, Texas.
86. Damage Prevention 064501: City of Mart enforcement action for violation of 16 TAC §18.11(b), at 605 E. Hill St. (S. Criswell St.), Mart, McLennan County, Texas.
87. Damage Prevention 064592: Texstar Enterprises, Inc. enforcement action for two violations of 16 TAC §§18.11(b) and 18.4(b), at 8176 N. Mopac Expy. (Steck Ave.), Austin, Travis County, Texas.
88. Damage Prevention 064750: BWM Development enforcement action for two violations of 16 TAC §§18.11(b), and 18.3(a), at 1403 N. Loop 250 (Deuville), Midland, Midland County, Texas.
89. Damage Prevention 064790: Centerpoint Energy Entex enforcement action for violation of 16 TAC §18.8(a), at Gummert Rd. (Copinsay Dr.), Houston, Harris County, Texas.
90. Damage Prevention 064859: Qro Mex enforcement action for violation of 16 TAC §§18.10(b) and 18.11(b), at 220 Regina (S. Hackberry), San Antonio, Bexar County, Texas.

91. Damage Prevention 064907: CPS Energy enforcement action for violation of 16 TAC §18.8(a), at 1413 Brazos (Laredo), San Antonio, Bexar County, Texas.
92. Damage Prevention 064910: Consolidated Communications enforcement action for violation of 16 TAC §§18.11(b) and 18.11(c), at 10334 Parrots Feather Ct., Conroe, Montgomery County, Texas.
93. Damage Prevention 064971: CPS Energy enforcement action for violation of 16 TAC §18.8(a), at 15531 Spring Summit (Stahl), San Antonio, Bexar County, Texas.
94. Damage Prevention 065007: Sebastian Construction Group enforcement action for violation of 16 TAC §§18.3(a) and 18.11(b), at 10300 Strait Ln. (Dorset Rd.), Dallas, Dallas County, Texas.
95. Damage Prevention 065055: City of Corpus Christi enforcement action for violation of 16 TAC §18.11(b), at 442 Southern (S. Alameda St.), Corpus Christi, Nueces County, Texas.
96. Damage Prevention 065074: PM Construction enforcement action for violation of 16 TAC §18.4(a), at 5510 Holly St. (S. Renwick Dr.), Houston, Harris County, Texas.
97. Damage Prevention 065132: City of Seguin enforcement action for violation of 16 TAC §18.3(a), at 3027 N. Austin St. (Jefferson Ave.), Seguin, Guadalupe County, Texas.
98. Damage Prevention 065144: Centerpoint Energy Entex enforcement action for violation of 16 TAC §18.8(a), at 9403 Walnut Brook Ct. (Village Terrace), Houston, Harris County, Texas.
99. Damage Prevention 065150: Centerpoint Energy Entex enforcement action for violation of 16 TAC §18.8(a), at 6200 Lonesome Bayou Ln., Houston, Harris County, Texas.
100. Damage Prevention 065159: CPS Energy enforcement action for violation of 16 TAC §18.8(a), at 1426 E. Sandalwood (Teak), San Antonio, Bexar County, Texas.
101. Damage Prevention 065167: Centerpoint Energy Entex enforcement action for violation of 16 TAC §18.8(a), at 8611 Village Terrace (Laurel Case Ct.), Houston, Harris County, Texas.
102. Damage Prevention 065180: Centerpoint Energy Entex enforcement action for violation of 16 TAC §18.8(a), at 6 Serenity Ln. (Glenway St.), Nash, Bowie County, Texas.
103. Damage Prevention 065181: Centerpoint Energy Entex enforcement action for violation of 16 TAC §18.8(a), at 1700 Blk. Wagon Gap Dr., Houston, Harris County, Texas.
104. Damage Prevention 065185: Centerpoint Energy Entex enforcement action for violation of 16 TAC §18.8(a), at 20142 Fallentimber Ct., Spring, Harris County, Texas.
105. Damage Prevention 065191: Centerpoint Energy Entex enforcement action for violation of 16 TAC §18.8(a), at 2320 Hagerman Rd. (Gunsmith Rd.), Conroe, Montgomery County, Texas.



106. Damage Prevention 065196: Centerpoint Energy Entex enforcement action for violation of 16 TAC §18.8(a), at 2704 FM 1398 (Robison Rd.), Texarkana, Bowie County, Texas.
107. Damage Prevention 065201: Centerpoint Energy Entex enforcement action for violation of 16 TAC §18.8(a), at 8145 Hwy. 6 #150 (Pavilion Pt.), Houston, Harris County, Texas.
108. Damage Prevention 065211: Centerpoint Energy Entex enforcement action for violation of 16 TAC §18.8(a), at 2201 Hwy. 271 (McKinley St.), Gladewater, Upshur County, Texas.
109. Damage Prevention 065215: Centerpoint Energy Entex enforcement action for violation of 16 TAC §18.8(a), at 2402 Wichita St. (Emancipation Ave.), Houston, Harris County, Texas.
110. Damage Prevention 065216: Centerpoint Energy Entex enforcement action for violation of 16 TAC §18.8(a), at 804 Ave. K, South Houston, Harris County, Texas.
111. Damage Prevention 065238: Centerpoint Energy Entex enforcement action for violation of 16 TAC §18.8(a), at 2300 W.N.W. Loop 323 (Savannah Dr.) Tyler, Smith County, Texas.
112. Damage Prevention 065239: Centerpoint Energy Entex enforcement action for violation of 16 TAC §18.8(a), at 6627 San Dario (W. Village Blvd.) Laredo, Webb County, Texas.
113. Damage Prevention 065241: Centerpoint Energy Entex enforcement action for violation of 16 TAC §18.8(a), at 6207 Canada Dr. (Space Center Blvd.), Pasadena, Harris County, Texas.
114. Damage Prevention 065242: Centerpoint Energy Entex enforcement action for violation of 16 TAC §18.8(a), at 305 Finnwick Dr. (Comanche Circle), Montgomery, Montgomery County, Texas.
115. Damage Prevention 065244: Centerpoint Energy Entex enforcement action for violation of 16 TAC §18.8(a), at 901 W. Pasadena Blvd. (Texas Ave.), Deer Park, Harris County, Texas.
116. Damage Prevention 065245: Centerpoint Energy Entex enforcement action for violation of 16 TAC §18.8(a), at 17823 Longenbaugh Rd. (Barker Cypress Rd.), Cypress, Harris County, Texas.
117. Damage Prevention 065254: Centerpoint Energy Entex enforcement action for violation of 16 TAC §18.8(a), at 3339 Fitzgerald Dr., Montgomery, Montgomery County, Texas.
118. Damage Prevention 065261: Centerpoint Energy Entex enforcement action for violation of 16 TAC §18.8(a), at 14918 La Quinta Ln. (Thornvine Ln.), Houston, Harris County, Texas.
119. Damage Prevention 065270: One Source Enterprise, LLC enforcement action for violation of 16 TAC §§18.3(a) and 18.11(b), at 6144 Sophora Ln. (Verbena Ln.), Frisco, Denton County, Texas.
120. Damage Prevention 065271: Centerpoint Energy Entex enforcement action for violation of 16 TAC §18.8(a), at 107 W. Dogwood (N. Timberlane), Lone Star, Morris County, Texas.

121. Damage Prevention 065272: Gene Shifflet enforcement action for two violations of 16 TAC §§18.11(b), and 18.3(a), at 306 El Toro Ln., Webster, Harris County, Texas.
122. Damage Prevention 065274: Centerpoint Energy Entex enforcement action for violation of 16 TAC §18.8(a), at Hwy. 259 (Mallard Rd.), Diana, Upshur County, Texas.
123. Damage Prevention 065278: Centerpoint Energy Entex enforcement action for violation of 16 TAC §18.8(a), at 176 Camelot Place Ct. (Chelsea Rd.), Conroe, Montgomery County, Texas.
124. Damage Prevention 065294: Centerpoint Energy Entex enforcement action for violation of 16 TAC §18.8(a), at 1301 Valentine St. (Ruthven St.), Houston, Harris County, Texas.
125. Damage Prevention 065301: Centerpoint Energy Entex enforcement action for violation of 16 TAC §18.8(a), at 7031 FM 1960 E. (Kings Park Way), Humble, Harris County, Texas.
126. Damage Prevention 065315: Adams Constructor enforcement action for violation of 16 TAC §§18.11(b), 18.11(b) and 18.3(e), at 3203 N. Sam Houston Pkwy. W., Houston, Harris County, Texas.
127. Damage Prevention 065317: Centerpoint Energy Entex enforcement action for violation of 16 TAC §18.8(a), at 364 Blk. Moon Stone Trl., Buda, Hays County, Texas.
128. Damage Prevention 065319: Centerpoint Energy Entex enforcement action for violation of 16 TAC §18.8(a), at 400 Blk. Sheldon Rd., Channelview, Harris County, Texas.
129. Damage Prevention 065326: City of Rockport enforcement action for violation of 16 TAC §18.8(a), at 405 Champions (St. Andrews), Rockport, Aransas County, Texas.
130. Damage Prevention 065334: Texas Gas Service Company enforcement action for violation of 16 TAC §18.8(a), at 9550 Lindsey Dr. (Threadgill Ave.), El Paso, El Paso County, Texas.
131. Damage Prevention 065339: Texas Gas Service Company enforcement action for violation of 16 TAC §18.8(a), at 606 N. Roosevelt Ave. (E. 7th St.), Nixon, Gonzales County, Texas.
132. Damage Prevention 065340: Centerpoint Energy Entex enforcement action for violation of 16 TAC §18.8(a), at 1012 Wichmann St. (Washington St.), Houston, Harris County, Texas.
133. Damage Prevention 065356: Texas Gas Service Company enforcement action for violation of 16 TAC §18.8(a), at 200 E. 18th St. (San Jacinto Blvd.), Austin, Travis County, Texas.
134. Damage Prevention 065363: Centerpoint Energy Entex enforcement action for violation of 16 TAC §18.8(a), at 10403 Sagebluff Dr. (Kirkville Dr.), Houston, Harris County, Texas.
135. Damage Prevention 065380: Targa Pl. Mid-Cont WestTex, LLC enforcement action for violation of 16 TAC §18.8(a), at N. Entrance Rd. (Highland Pens Rd.), Big Lake, Reagan County, Texas.

136. Damage Prevention 065382: Pro-Bore Construction enforcement action for violation of 16 TAC §18.4(a), at Belt Line Rd. (Montfort Dr.), Dallas, Dallas County, Texas.
137. Damage Prevention 065391: Mustang Plumbing enforcement action for violation of 16 TAC §18.4(b), at 773 Lead Tree (Algaroba), Buda, Hays County, Texas.
138. Damage Prevention 065394: Navitas Mdstr. Midland Basin, LLC enforcement action for violation of 16 TAC §18.8(a), at CR 1050 (FM 307), Midland, Midland County, Texas.
139. Damage Prevention 065397: Atmos Energy Corp., Mid-Tex Div. enforcement action for violation of 16 TAC §18.8(a), at 219 W. Roberts (Potter), Gorman, Eastland County, Texas.
140. Damage Prevention 065399: Atmos Energy Corp., Mid-Tex Div. enforcement action for violation of 16 TAC §18.8(a), at 401 N. Bradley St. (W. Lamar St.), McKinney, Collin County, Texas.
141. Damage Prevention 065401: Atmos Energy Corp., Mid-Tex Div. enforcement action for violation of 16 TAC §18.8(a), at 712 S. Broughter (E. Foch), Eastland, Eastland County, Texas.
142. Damage Prevention 065406: Atmos Energy Corp., Mid-Tex Div. enforcement action for violation of 16 TAC §18.8(a), at 4554 Chase Ct. (W. Polo Rd.) Grand Prairie, Dallas County, Texas.
143. Damage Prevention 065421: Texas Gas Service Company enforcement action for violation of 16 TAC §18.8(a), at 1711 San Jacinto (E. 17th St.), Austin, Travis County, Texas.
144. Damage Prevention 065422: Atmos Energy Corp., Mid-Tex Div. enforcement action for violation of 16 TAC §18.8(a), at 2211 Marburg St. (Marburg St.), Dallas, Dallas County, Texas.
145. Damage Prevention 065426: Atmos Energy Corp., Mid-Tex Div. enforcement action for violation of 16 TAC §18.8(a), at 6334 Weitchester (McFarlin), University Park, Dallas County, Texas.
146. Damage Prevention 065427: Atmos Energy, West Texas Division enforcement action for violation of 16 TAC §18.8(a), at 2302 Date Ave., Lubbock, Lubbock County, Texas.
147. Damage Prevention 065428: Atmos Energy Corp., Mid-Tex Div. enforcement action for violation of 16 TAC §18.8(a), at 509 Martin Luther King (Barrett), Denison, Grayson County, Texas.
148. Damage Prevention 065429: Atmos Energy Corp., Mid-Tex Div. enforcement action for violation of 16 TAC §18.8(a), at Southwell Rd. (Harry Hines Blvd.), Dallas, Dallas County, Texas.
149. Damage Prevention 065431: Atmos Energy Corp., Mid-Tex Div. enforcement action for violation of 16 TAC §18.8(a), at 6014 Monza Dr. (Torino Reale Ave.), Temple, Bell County, Texas.
150. Damage Prevention 065432: Atmos Energy Corp., Mid-Tex Div. enforcement action for violation of 16 TAC §18.8(a), at 905 E. Commerce (14th St.), Honey Grove, Fannin County, Texas.

151. Damage Prevention 065434: Atmos Energy Corp., Mid-Tex Div. enforcement action for violation of 16 TAC §18.8(a), at 116 Philadelphia St. (Breckenridge Rd.), Morton Valley, Eastland County, Texas.
152. Damage Prevention 065435: Atmos Energy, West Texas Division enforcement action for violation of 16 TAC §18.8(a), at 5736 35th St. (Frankfort Ave.), Lubbock, Lubbock County, Texas.
153. Damage Prevention 065436: Atmos Energy Corp., Mid-Tex Div. enforcement action for violation of 16 TAC §18.8(a), at 305 Fisher St. (Ave. C), Sweetwater, Nolan County, Texas.
154. Damage Prevention 065443: AnSCO & Associates, LLC enforcement action for violation of 16 TAC §18.10(b), at 11335 Cutten Rd. (Westfield Grove Pl.), Katy, Harris County, Texas.
155. Damage Prevention 065444: Atmos Energy Corp., Mid-Tex Div. enforcement action for violation of 16 TAC §18.8(a), at Bristol Ct. (Stafford Dr.), Heath, Rockwall County, Texas.
156. Damage Prevention 065445: Atmos Energy Corp., Mid-Tex Div. enforcement action for violation of 16 TAC §18.8(a), at 714 S. 9th St. (W. Ave. G), Garland, Dallas County, Texas.
157. Damage Prevention 065448: Atmos Energy Corp., Mid-Tex Div. enforcement action for violation of 16 TAC §18.8(a), at 133 East St. (North St.), Tye, Taylor County, Texas.
158. Damage Prevention 065452: Ragle, Inc. enforcement action for violation of 16 TAC §18.11(b), at 4500 Preston Rd. (Armstrong), Dallas, Dallas County, Texas.
159. Damage Prevention 065454: Atmos Energy Corp., Mid-Tex Div. enforcement action for violation of 16 TAC §18.8(a), at 3012 McFerrin Ave. (N. 30th St.), Waco, McLennan County, Texas.
160. Damage Prevention 065455: Atmos Energy Corp., Mid-Tex Div. enforcement action for violation of 16 TAC §18.8(a), at N. 6th (Sycamore St.), Lott, Falls County, Texas.
161. Damage Prevention 065458: Mission Site Services enforcement action for violation of 16 TAC §18.11(b), at 806 Oakwood Dr. (Whitener Rd.), Euless, Tarrant County, Texas.
162. Damage Prevention 065461: Rodgers Construction enforcement action for violation of 16 TAC §§18.11(b) and 18.11(c), at 3208 Sawmill Way (Shaila Dr.), Mansfield, Ellis County, Texas.
163. Damage Prevention 065463: Integrus Electric, Ltd. enforcement action for two violations of 16 TAC §§18.11(b), 18.3(a) and 18.11(c), at Gallup Dr. (Branding Iron), Princeton, Collin County, Texas.
164. Damage Prevention 065464: Atmos Energy Corp., Mid-Tex Div. enforcement action for violation of 16 TAC §18.8(a), at 2600 Laclede St. (Routh St.), Dallas, Dallas County, Texas.
165. Damage Prevention 065466: Atmos Energy Corp., Mid-Tex Div. enforcement action for violation of 16 TAC §18.8(a), at 602 N. Ave. N (Mary St.), Clifton, Bosque County, Texas.

166. Damage Prevention 065468: Atmos Energy Corp., Mid-Tex Div. enforcement action for violation of 16 TAC §18.8(a), at 524 N. Denley Dr., Dallas, Dallas County, Texas.
167. Damage Prevention 065474: Texas Gas Service Company enforcement action for violation of 16 TAC §18.8(a), at 7003 Blessing Ave. (Booker Ave.), Austin, Travis County, Texas.
168. Damage Prevention 065475: Atmos Energy Corp., Mid-Tex Div. enforcement action for violation of 16 TAC §18.8(a), at 1790 N. Stonebridge Dr. (Watch Hill Dr.), McKinney, Collin County, Texas.
169. Damage Prevention 065478: Dig Tech, Inc. enforcement action for two violations of 16 TAC §§18.11(b), at 402 El Secreto St., Buda, Hays County, Texas.
170. Damage Prevention 065480: Atmos Energy Corp., Mid-Tex Div. enforcement action for violation of 16 TAC §18.8(a), at 310 E. 3rd St. (Elm), Arlington, Tarrant County, Texas.
171. Damage Prevention 065483: O'Day Drilling Company enforcement action for violation of 16 TAC §§18.3(a) and 18.11(b), at 160 S. Belt Dr. (Park Almeida Dr.), Houston, Harris County, Texas.
172. Damage Prevention 065484: MPG Pipeline Contractors, LLC enforcement action for violation of 16 TAC §18.4(a), at CR 1906 (CR 2501), Odem, San Patricio County, Texas.
173. Damage Prevention 065485: Atmos Energy Corp., Mid-Tex Div. enforcement action for violation of 16 TAC §18.8(a), at 3113 Benton St. (S. Kirby St.), Garland, Dallas County, Texas.
174. Damage Prevention 065499: Visionary Sales Environments enforcement action for violation of 16 TAC §18.11(b), at 5312 Lochwood Circle (Dewland Dr.), McKinney, Collin County, Texas.
175. Damage Prevention 065500: Atmos Energy Corp., Mid-Tex Div. enforcement action for violation of 16 TAC §18.8(a), at 402 W. 8th St. (Forest St.), Georgetown, Williamson County, Texas.
176. Damage Prevention 065505: Atmos Energy Corp., Mid-Tex Div. enforcement action for violation of 16 TAC §18.8(a), at 2800 Homer St. (Vickery Blvd.), Dallas, Dallas County, Texas.
177. Damage Prevention 065514: Standard Utility Construction enforcement action for violation of 16 TAC §§18.10(c) and 18.11(b), at 2273 Lobo Ln. (Haven Ridge Rd.), Carrollton, Denton County, Texas.
178. Damage Prevention 065521: Edgardo Madrid & Associates, LLC enforcement action for two violations of 16 TAC §§18.11(b), and 18.3(a), at 909 E. 13th (Center), Odessa, Ector County, Texas.
179. Damage Prevention 065524: West Texas Gas, Inc. enforcement action for violation of 16 TAC §18.8(a), at FM 303 (Brazil), Pettit, Hockley County, Texas.

180. Damage Prevention 065530: Atmos Energy Corp., Mid-Tex Div. enforcement action for violation of 16 TAC §18.8(a), at 3212 Galloway Rd. (Wyneth Dr.), Wichita Falls, Wichita County, Texas.
181. Damage Prevention 065532: Atmos Energy Corp., Mid-Tex Div. enforcement action for violation of 16 TAC §18.8(a), at 940 W. University (IH 35), Georgetown, Williamson County, Texas.
182. Damage Prevention 065533: Atmos Energy Corp., Mid-Tex Div. enforcement action for violation of 16 TAC §18.8(a), at 3022 Moon Dr. (Gus Thomasson Rd.), Mesquite, Dallas County, Texas.
183. Damage Prevention 065535: Atmos Energy Corp., Mid-Tex Div. enforcement action for violation of 16 TAC §18.8(a), at 1802 Ave. J, Anson, Jones County, Texas.
184. Damage Prevention 065536: Atmos Energy Corp., Mid-Tex Div. enforcement action for violation of 16 TAC §18.8(a), at 9027 Diplomacy Row (Profit Dr.), Dallas, Dallas County, Texas.
185. Damage Prevention 065537: Smetana & Associates enforcement action for violation of 16 TAC §18.4(a), at 1600 Connor Ave. (16th St.), Waco, McLennan County, Texas.
186. Damage Prevention 065573: Texas Gas Service Company enforcement action for violation of 16 TAC §18.8(a), at 2004 Teagle Dr. (Stock Dr.), Austin, Travis County, Texas.
187. Damage Prevention 065686: JF Construction enforcement action for violation of 16 TAC §18.11(b), at 2134 Hondo Ave. (Harry Hines), Dallas, Dallas County, Texas.

## **ADMINISTRATIVE MATTERS**

### **OVERSIGHT AND SAFETY DIVISION**

188. Adoption of amendments to Form PS-48.

### **COMMISSIONERS**

189. Consideration of issues and possible action related to the COVID-19 pandemic including but not limited to (1) potential waiver or suspension of applicable statutes, rules, final orders, or other regulatory requirements; and (2) analysis of potential relief or other economic development initiative.
190. In Re Motion for Commission Called Hearing on the Verified Complaint of Pioneer Natural Resources USA Inc. and Parsley Energy Inc. to Determine Reasonable Market Demand for Oil in the State of Texas.

Commissioner Sitton

Proposed Order relating to Item 190. The proposed order is attached as Appendix A to this open meeting notice. Anyone interested in providing comments on the proposed order may do so by emailing [RRCconference@rrc.texas.gov](mailto:RRCconference@rrc.texas.gov) before Monday, May 4, 2020.

The Commissioners may enter into an executive session on either Item 189 or Item 190.

**PUBLIC INPUT**

191. The Commission will provide an opportunity for general public input on any matter under the jurisdiction of the Commission, in accordance with the policy adopted on September 7, 2005.

**EXECUTIVE SESSION**

192. The Commission may enter into closed Executive Session for discussion and consideration of items posted on this agenda notice which involve: (a) pending or contemplated litigation matters or settlement offers requiring consultation with or advice from the Commission's attorney, pursuant to Texas Government Code §551.071(1); (b) a matter in which the duty of the Commission's attorney to the Commission under the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas clearly conflicts with Chapter 551 of the Texas Government Code, pursuant to Texas Government Code §551.071(2); (c) a negotiated contract for a prospective gift or donation to the State or to the Commission, pursuant to Texas Government Code §551.073; (d) personnel matters, including the appointment, employment, or dismissal of a public officer or employee, pursuant to Texas Government Code §551.074; (e) security matters related to the deployment of, or specific occasions for the implementation of, security personnel or devices, pursuant to Texas Government Code §551.076; or (f) other matters as permitted pursuant to Chapter 551 of the Texas Government Code. The Commission may reconvene following Executive Session for discussion of items considered in closed session and to take any final actions or vote on such matters in accordance with Texas Government Code §551.102.

## APPENDIX A

This draft order, or an order substantially similar, may be discussed and voted on by the Commission at its May 5th, 2020 Commissioners' Conference. Anyone interested in providing comments on this draft order may do so by emailing [rrcconference@rrc.texas.gov](mailto:rrcconference@rrc.texas.gov) before Monday, May 4, 2020.

### RAILROAD COMMISSION OF TEXAS HEARINGS DIVISION

#### **OIL & GAS DOCKET NO. OG-20-00003167**

**IN RE: MOTION FOR COMMISSION CALLED HEARING ON THE VERIFIED COMPLAINT OF PIONEER NATURAL RESOURCES U.S.A. INC. AND PARSLEY ENERGY INC. TO DETERMINE REASONABLE MARKET DEMAND FOR OIL IN THE STATE OF TEXAS**

#### **Order Establishing the Reasonable Market Demand for Oil Production In Texas**

Notice of an open meeting to consider the captioned matter was duly posted pursuant to Texas Gov't Code Chapter 551. In calling this meeting, the Railroad Commission of Texas (the "Commission") took note of the Governor's Order issued March 16, 2020 that suspended various provisions of the Open Meetings Act.

#### **Findings of Fact**

1. On March 16, 2020, in accordance with Texas Government Code § 418.016, the Governor of Texas, Greg Abbott, suspended various provisions of the Open Meetings Act that require government officials and members of the public to be physically present at a specified meeting location.
2. On March 30, 2020, Pioneer Natural Resources U.S.A. Inc. and Parsley Energy Inc. filed a verified complaint and motion ("Motion") requesting that the Commission call a hearing to determine reasonable market demand for oil production in the State of Texas, as authorized by Texas Natural Resources Code § 85.049.
3. The Commission issued a notice that the Motion would be taken up for discussion and/or decision by the Commission at an open meeting via virtual conference on April 14, 2020, commencing at 9:30 a.m. Such notice provided that the public would be able to participate in the meeting through an advance registration process that was described in such notice, and that members of the public could



also view the hearing on the Commission's website and on [www.adminmonitor.com](http://www.adminmonitor.com).

4. The Notice noted in Section 3 above further provided that the Commission would receive comments on the Motion and required that all comments and other testimony be filed by April 8, 2020. The written comments that were received on or prior to the open meeting on April 14, 2020 were posted on the Commission's website. Over 888 individuals provided written comments.
5. Individuals who provided written comments and also expressed interest in appearing before the Commissioners during the open meeting were identified in a list posted on the Commission's website on April 13, 2020. Nearly all of those 55 individuals presented live comments during the open meeting on April 14, 2020.
6. The Commission issued a notice that the Motion would again be taken up for discussion and/or decision by the Commission at an open meeting via virtual conference on April 21, 2020, commencing at 9:30 a.m. Such notice provided that the public would be able to participate in the meeting through an advance registration process that was described in such notice, and that members of the public could also view the hearing on the Commission's website and on [www.adminmonitor.com](http://www.adminmonitor.com).
7. The Commission issued a notice that the Motion would again be taken up for discussion and/or decision by the Commission at an open meeting via virtual conference on May 5, 2020, commencing at 9:30 a.m. Such notice provided that the public would be able to participate in the meeting through an advance registration process that was described in such notice, and that members of the public could also view the hearing on the Commission's website and on [www.adminmonitor.com](http://www.adminmonitor.com).
8. The Commission takes official notice (pursuant to 16 Texas Administrative Code §1.62) that since February 2020, a global pandemic of COVID-19 has swept the world. The pandemic has resulted in a collapse in demand for oil production from the State of Texas.
9. The Commission takes official notice that beginning in March, 2020 Saudi Arabia and Russia have substantially increased the supply of oil they are producing and selling in the global marketplace.
10. The Commission takes official notice that the combination of the impacts of COVID-19 on oil demand and the increase in global supply of oil have resulted in a considerable oversupply of oil which far exceeds current demand.
11. The Commission takes official notice that the amount of available global and domestic onshore oil storage capacity (unused) is quickly diminishing and that global onshore oil storage capacity is projected to be filled by mid-May. The Commission takes official notice that once oil storage capacity is filled, the remaining surplus of supply will overwhelm the handling, processing and storage

capacities of the industry's other key logistical nodes (pipelines, vessels, terminals, processing units and storage facilities), which will cause producers to shut in oil production in ways that could damage reservoirs.

12. The Commission finds that waste is taking place or is reasonably imminent because the production of oil in the State of Texas is currently (or very soon will be) in excess of market facilities and reasonable market demand, and the Texas Legislature directs that the Commission shall act in such a situation. Texas Natural Resources Code §§ 85.046(a)(10), 85.051.
13. The Commission finds that the production of oil in the State of Texas is likely to remain in excess of the market facilities and reasonable market demand for some undetermined period of time into the future.
14. The Commission finds that the Order noted below would impose a materially disproportionate administrative burden, and have a materially disproportionate economic impact, on operators with aggregate production of less than 1,000 barrels of oil per day and that the aggregate reduction in Oil production achieved from making those smaller operators subject to the Order is not significant compared to the reduction in Oil production achieved by making larger producers subject to the Order.

#### Conclusions of Law

1. The above-described open meetings occurred as noticed and were conducted in accordance with applicable law.
2. The Commission has jurisdiction over this matter pursuant to Texas Natural Resources Code § 85.049, et seq.
3. The Commission has determined that waste is taking place or is reasonably imminent, and that the Texas Legislature requires the Commission to act in such a situation. The Commission, therefore, determined that an order must be adopted to correct, prevent, or lessen the waste and optimize the production of oil.
4. The Commission, having considered the motion filed by Pioneer Natural Resources U.S.A. Inc. and Parsley Energy Inc. on March 30, 2020 and the governing law, has determined that the motion is **GRANTED** and the Commission hereby makes the Order set forth below.

#### Order

Therefore, it is ORDERED by the Commission as follows (the "Order"):

1. Commencing with the Initial Proration Month and ending on the last day of the Last Proration Month, each Applicable Operator shall restrict the aggregate volume of Oil produced by such Applicable Operator from Oil Wells during each Proration Month so

that the aggregate total volume of Oil produced from all Oil Wells Operated by such Applicable Operator during each Proration Month, in the aggregate, does not exceed the Proration Volume applicable to such Applicable Operator for the applicable Proration Month (such restriction requirements referred to in this paragraph shall be referred to as the "**Prorationing Requirements**").

2. This Order shall temporarily supersede all Oil allowable formulas set forth by Special Field Rules or Statewide Rules and shall have precedence and control over all prior orders and rules of the Commission in conflict herewith, if any, only to the extent of such conflict.
3. A penalty for non-compliance with this Order by any Applicable Operator shall be that such Applicable Operator will be fined in the amount equal to \$1,000.00 for each barrel of Oil produced during a given Proration Month by the Applicable Operator from Oil Wells Operated by such Applicable Operator which is in excess of such Applicable Operator's Proration Volume for such Proration Month. The Commission may reduce or eliminate this penalty upon a showing of a "good faith" effort to operate within the limits of this Order.
4. Any Operator may request a hearing with the Commission to determine if this Order shall not apply to individual wells or leases.
5. This Order shall be effective immediately and shall last until the last day of the Last Proration Month. Further, the Commission shall determine, at a hearing to be held in each calendar month during which this Order is in effect, whether it is necessary to keep this Order in effect and, if so, whether the Market Demand Factor should be adjusted or other adjustments to this Order are necessary.
6. For purposes of this Order, the following terms will have the meanings ascribed below:

"**Active Oil Well**" means an Oil Well that is in Active Operation.

"**Active Operation**" shall have the meaning ascribed to such term pursuant to 16 TEX. ADMIN. CODE §3.15(a)(1).

"**Applicable Operator**" means each Operator other than an Excluded Operator.

"**Benchmark Oil Production Period**" means the period commencing at 7:00 am, Central Time, on October 1, 2019, through 7:00 am, Central Time on January 1, 2020.

"**Benchmark Oil Production Volume**" means, with respect to each Applicable Operator, the greater of (i) such Applicable Operator's October 2019 Oil Production Volume,

(ii) such Applicable Operator's November 2019 Oil Production Volume or (iii) such Applicable Operator's December 2019 Oil Production Volume.

**"Complementary Proration Measures"** means the responsible Governmental Authorities of any state or combination of states of the United States (other than Texas), foreign provinces or countries have enacted Laws (conditional or otherwise) on or after the Enactment Date that collectively, based on estimates of the applicable Governmental Authorities, will reduce or continually reduce oil production in the jurisdictions of the participating Governmental Authorities by an aggregate amount of oil production equal to at least 4 million barrels of oil per day from the average barrel per day oil production levels in the jurisdictions of the participating Governmental Authorities during the Benchmark Oil Production Period (in addition to the 9.7 million barrels of oil per day reduction previously announced by the OPEC+ Countries prior to the Enactment Date).

**"December 2019 Oil Production Volume"** means with respect to each Applicable Operator, the aggregate volume (calculated in barrels) of Oil produced from Active Oil Wells (other than Exempt Wells) that are Operated by such Applicable Operator during the period commencing at 7:00 am, Central Time, on December 1, 2019, through 7:00 am, Central Time on January 1, 2020, as reported by such Applicable Operator to the Railroad Commission, divided by 31 (the number of calendar days during such period).

**"Enactment Date"** means the date this Order was made, being May 5, 2020.

**"Excluded Operator"** means, each Operator (a) that during the calendar month of January, 2020 Operated one or more Active Oil Wells and (b) that had an average daily total volume (calculated in barrels) of Oil produced by all Active Oil Wells Operated by such Operator, in the aggregate, during the calendar month of January, 2020, as reported by such Operator to the Commission, that was less than one thousand (1,000) barrels per day.

**"Exempt Wells"** means any well exempted from the Commission's prorationing authority under 16 TEX. ADMIN. CODE Chapter 3 (including, without limitation, 16 TEX. ADMIN. CODE §3.42) or the Texas Natural Resources Code (including, without limitation, Texas Natural Resources Code §§ 85.048, 85.124).

**"Governmental Authority"** or **"Governmental Authorities"** means any national, state, county or municipal government and/or government of any political subdivision, and departments, courts, commissions, boards, bureaus, ministries, agencies, or other instrumentalities of any of them that has jurisdiction over the volume of production of crude oil within the area over which it has such jurisdiction.

**"Initial Proration Month"** means (a) if the Complementary Proration Measures are enacted before the 7th day of a given calendar month, then the calendar month following the calendar month in which the Complementary Proration Measures are enacted and (b) if the Complementary Proration Measures are enacted on or after the 7th day of a given calendar

month, then the second calendar month following the calendar month in which the Complementary Proration Measures are enacted.

**“Last Proration Month”** means the earlier of (i) the first calendar month following the Initial Proration Month during which the Complementary Proration Measures are no longer in effect and (ii) the calendar month during which the Commission finds that global demand for crude oil exceeds 85 million barrels of oil per day.

**“Law” or “Laws”** each mean any applicable statute, law, rule, regulation, ordinance, order, code, ruling, writ, injunction, decree or other official act of or by any Governmental Authority, whether individually or in combination with one another.

**“Market Demand Factor”** means, for any Proration Month, the percentage of anticipated production of Oil in the State during such Proration Month, as determined by the Commission from time to time, necessary to prevent waste of Oil within the State during such Proration Month. The Market Demand Factor for the Proration Months covered by this Order shall be eighty percent (80%) until further determination by the Commission.

**“November 2019 Oil Production Volume”** means with respect to each Applicable Operator, the aggregate volume (calculated in barrels) of Oil produced from Active Oil Wells (other than Exempt Wells) that are Operated by such Applicable Operator during the period commencing at 7:00 am, Central Time, on November 1, 2019, through 7:00 am, Central Time on December 1, 2019, as reported by such Applicable Operator to the Railroad Commission, divided by 30 (the number of calendar days during such period).

**“October 2019 Oil Production Volume”** means with respect to each Applicable Operator, the aggregate volume (calculated in barrels) of Oil produced from Active Oil Wells (other than Exempt Wells) that are Operated by such Applicable Operator during the period commencing at 7:00 am, Central Time, on October 1, 2019, through 7:00 am, Central Time on November 1, 2019, as reported by such Applicable Operator to the Railroad Commission, divided by 31 (the number of calendar days during such period).

**“Oil”** shall have the meaning ascribed to such term pursuant to TEX. NAT. RES. CODE § 85.001(b) as further modified such that the term “Oil” shall not be construed to mean any liquid hydrocarbon mixture or portion thereof which is not in the liquid phase in the reservoir, removed from the reservoir in such liquid phase, and obtained at the surface as such.

**“Oil Well”** means, with respect to the applicable time period stated in this Order, any well that is classified as an oil well on Form W-2 (Oil Well Potential Test, Completion, or Recompletion Report, and Log) at any time during such period.

**“OPEC+ Countries”** means the following: Algeria, Angola, Azerbaijan, Bahrain, Brunei, Congo, Equatorial Guinea, Gabon, Iran, Iraq, Kazakhstan, Kuwait, Libya, Malaysia, Mexico, Nigeria, Oman, Russia, Saudi Arabia, South Sudan, Sudan, United Arab Emirates, and Venezuela.

**"Operate"** means performing operations with respect to an Oil Well that are within the jurisdiction of the Commission as contemplated in 16 TEX. ADMIN. CODE §3.1(a)(1) (and the derivatives of such term, including the terms **"Operates"**, **"Operating"** and **"Operated"**, shall have the correlative meaning).

**"Operator"** means each person or entity subject to 16 TEX. ADMIN. CODE §3.1(a)(1) Operating one or more Active Oil Wells, excluding Exempt Wells, during the applicable calendar month in question.

**"Proration Month"** means each calendar month, commencing with the Initial Proration Month and ending with the Last Proration Month.

**"Proration Volume"** means, with respect to each Applicable Operator for each Proration Month, the product of (a) the Benchmark Oil Production Volume for such Applicable Operator multiplied by (b) the number of calendar days in such Proration Month multiplied by (c) the Market Demand Factor for such Proration Month.

**"State"** means the State of Texas.

**"waste"** shall have the meaning ascribed to such term pursuant to TEX. NAT. RES. CODE § 85.046.

7. This Order shall be effective immediately and shall last until the last day of the Last Proration Month. Further, the Commission shall determine, at a hearing to be held in each calendar month during which this Order is in effect, whether it is necessary to keep this Order in effect and, if so, whether the Market Demand Factor should be adjusted or other adjustments to this Order are necessary.

Signed on May 5, 2020.

**RAILROAD COMMISSION OF TEXAS**

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**CHAIRMAN WAYNE CHRISTIAN**

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**COMMISSIONER CHRISTI CRADDICK**

\_\_\_\_\_  
COMMISSIONER RYAN SITTON

ATTEST:

\_\_\_\_\_  
SECRETARY

Unofficial copy Travis Co. District Clerk Velda L. Price

## RAILROAD COMMISSION OF TEXAS

### TEMPORARY EXCEPTIONS TO STATEWIDE RULES 8, 13, 14, and 107

The Railroad Commission of Texas ("Commission"), in recognition of the unprecedented national and global economic conditions currently impacting the oil and gas industry, hereby grants certain exceptions to its administrative rules as is more fully set forth herein. The Commission is authorized to grant exceptions to its rules. No operator shall construe these exceptions as exceptions to a rule regulating public safety, health, or the prevention of pollution. Furthermore, any exception not expressly described herein is denied.

The Commission grants exceptions to the following administrative rules, subject to the provisions and conditions outlined below.

#### **Statewide Rule 8**

The Commission hereby grants an exception to 16 Texas Administrative Code § 3.8(d)(4)(H). As of the effective date of this document, a person maintaining a reactive pit, mud circulation pit, fresh makeup water pit, fresh mining water pit, completion/ workover pit, basic sediment pit, flare pit, non-commercial fluid recycling pit, or water condensate pit (collectively "authorized pit(s)") may submit a notification to the appropriate Commission District Office for an extension of the deadline to dewater, backfill, and compact the authorized pit.

The operator shall maintain the pit so that all fluids are confined to the pit at all times, the landowner consents to the extended deadlines (or the operator provides an affidavit or other written statement attesting that no landowner consent is required) and the pit is otherwise maintained in compliance with all applicable Commission statutes and rules.

This exception expires one (1) year after the May 5, 2020 effective date, unless earlier terminated or continued by subsequent Commission action.

#### **Statewide Rule 13**

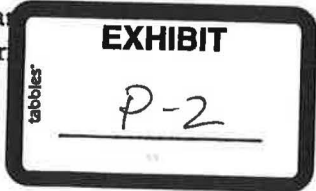
The Commission hereby grants an exception to 16 Texas Administrative Code § 3.13(d). As of the effective date of this document, Staff may administratively grant an exception to 16 Texas Administrative Code § 3.13 not to exceed a period of 365 days. No other provisions of 16 Texas Administrative Code § 3.13(d), other than the exception to the 180-day limitation, are affected by this exception.

This exception expires one (1) year after the May 5, 2020 effective date, unless earlier terminated or continued by subsequent Commission action.

#### **Statewide Rule 14**

The Commission hereby grants an exception to 16 Texas Administrative Code § 3.14(b)(2). As of the effective date of this document, plugging operations on wells reporting production in February 2020 and subsequently shut-in (no reported production from March 1, 2020 – March 1, 2021), shall commence no later than two (2) years after drilling or operations cease.

Any operator utilizing the exception to 16 Texas Administrative Code § 3.14(b)(2) shall notify the applicable District Office as soon as practicably possible but, in any event, no later than 30 days after drilling or operations cease. An operator that fails to notify the applicable District





Temporary Exceptions to Statewide Rules 8, 13, 14, and 107  
page 2

its use of the exception to 16 Texas Administrative Code § 3.14(b)(2) may be required to commence plugging operations within one (1) year after drilling or operations cease.

This exception in no way limits the Commission's authority to require an operator to plug a well that is leaking salt water, oil, or gas or is likely to leak salt water, oil, or gas, and such leakage will cause or is likely to cause a serious threat of pollution or injury to the public health.

**Statewide Rule 107**

The Commission hereby grants an exception to 16 Texas Administrative Code § 3.107(b). As of the effective date of this document, the Commission's Legal Enforcement Section may recommend administrative penalties in an amount less than the minimum penalties listed in 16 Texas Administrative Code § 3.107 for violations of Commission rules occurring between March 1, 2020 and March 1, 2021. In addition, the Legal Enforcement Section shall continue to seek compliance for violations of Commission rules.

This exception expires one (1) year after the May 5, 2020 effective date, unless earlier terminated or continued by subsequent Commission action.

The Commission's grant of exceptions to Statewide Rules 8, 13, 14, and 107 are intended to be temporary. The extensions are subject to extension or modification as necessitated by the adverse economic and industry conditions or as the Commission otherwise determines. The exceptions shall be effective as of the date of the open meeting, May 5, 2020, and shall remain in effect for an amount of time specific to each exception and specified herein.

Signed on May 5, 2020.

**RAILROAD COMMISSION OF TEXAS**

DocuSigned by:

*Wayne Christian*

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**CHAIRMAN WAYNE CHRISTIAN**

DocuSigned by:

*Christi Craddick*

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**COMMISSIONER CHRISTI CRADDICK**

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*Ryan Sitton*

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**COMMISSIONER RYAN SITTON**

**ATTEST:**

DocuSigned by:

*Callie Farnas*

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## RAILROAD COMMISSION OF TEXAS

### TEMPORARY EXCEPTION TO CERTAIN FEES & SURCHARGES REQUIRED BY STATEWIDE RULE 78

Comes now, the Railroad Commission of Texas ("Commission"), and, in consideration of the unprecedented economic and operating conditions currently impacting the oil and gas industry, grants the following exceptions to certain administrative filing fee and surcharge rules. The Commission is authorized to grant exceptions to its rules. These exceptions are in the best interest of the citizens of the State.

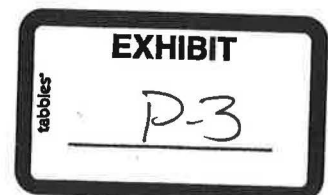
The Commission carefully identified the fees described herein with the intent of incentivizing the construction of additional storage facilities (e.g. storage tanks and underground storage facilities). Furthermore, the Commission finds that these fee exceptions will allow operators to timely perform the required activities and file the necessary forms, without the burden of paying administrative fees and surcharges. The exceptions to the administrative fee and surcharge rules will provide financial relief during these unprecedented economic conditions.

Inevitably, the exception to the fee requirement will impact agency revenue to a certain extent. However, the Commission has always practiced conservative fiscal policies with its finances and will continue to do so. By taking this temporary measure, the Commission can support the oil and gas industry's recovery during this difficult time. The oil and gas industry is a vital component of our State's economy. Ultimately, these exceptions will help all Texans.

No operator shall construe any of these exceptions as exceptions to a rule regulating public safety, health, or the prevention of pollution. Furthermore, any exception not expressly described herein is hereby denied.

The Commission hereby grants an exception to 16 Texas Administrative Code § 3.78 for the following fees:

- The fee required to be filed with a Form P-17 (Application for Permit Exception to Statewide Rules 26 and/or 27). *See* 16 Tex. Admin. Code § 3.78(b)(4).
- The fee required to be filed with a Form W-14 (Application to Dispose Oil & Gas Waste by Injection into a Porous Formation Not Productive of Oil or Gas). *See* 16 Tex. Admin. Code § 3.78(b)(5).
- The fee required to be filed with a Form H-1 (Application to Inject Fluid into a Reservoir Productive of Oil & Gas). *See* 16 Tex. Admin. Code § 3.78(b)(7)
- The fee required to be filed with a Form H-4 (Application to Create, Operate and Maintain an Underground Hydrocarbon Storage Facility). *See* 16 Tex. Admin. Code § 3.78(b)(7).
- The fee required to be filed with an application for exception to the surface equipment removal requirements, Form W-3C (Certification of Surface Equipment Removal for an Inactive Well). *See* 16 Tex. Admin. Code § 3.78(b)(4).



Temporary Exception to Certain Fees and Surcharges  
May 5, 2020  
page 2

In addition to the above-identified fees, the Commission hereby grants an exception to 16 Texas Administrative Code § 3.78(n). The filing fees identified above are hereby excepted from any imposition of a surcharge.

Wherefore, considering the Commission's grant of exception to the administrative rules requiring certain filing fees and surcharges, any person submitting one of the forms identified in this document may submit said form without paying the associated filing fee and surcharge. If a form is submitted with the filing fee and surcharge, the Commission will not refund or reimburse the payment.

The Commission's grant of these exceptions is intended to be temporary. They are subject to extension or modification as necessitated by the adverse economic and industry condition or as the Commission otherwise determines. These exceptions shall be effective as of the date of the open meeting, May 5, 2020, and shall remain in effect until December 31, 2020.

Signed on May 5, 2020.

RAILROAD COMMISSION OF TEXAS

DocuSigned by:

*Wayne Christian*

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CHAIRMAN WAYNE CHRISTIAN

DocuSigned by:

*Christi Craddick*

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COMMISSIONER CHRISTI CRADDICK

DocuSigned by:

*Ryan Sitton*

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COMMISSIONER RYAN SITTON

ATTEST:

DocuSigned by:

*Callie Farnas*

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Unofficial copy Travis Co. District Clerk Kevan Price

**RAILROAD COMMISSION OF TEXAS**

**TEMPORARY EXCEPTION TO STATEWIDE RULE 95**

Comes now, the Railroad Commission of Texas ("Commission"), and, in consideration of the unprecedented economic conditions currently impacting the oil and gas industry and shortage of unfilled crude oil storage capacity, grants the following exception to its administrative rules regarding the underground storage of liquid hydrocarbons. The Commission is authorized to grant exceptions to its rules.

No operator shall construe these exceptions as exceptions to a rule regulating public safety, health, or the prevention of pollution. Furthermore, any exception not expressly described herein is hereby denied.

The Commission hereby grants an exception to 16 Texas Administrative Code § 3.95. As of the effective date of this document, an applicant for a permit to store crude oil underground may submit an application for an underground hydrocarbon storage facility located in a geological formation other than an underground salt formation. The application must otherwise comply with the requirements of 16 Texas Administrative Code § 3.95 and Texas Natural Resources Code § 91.201 – 91.207.

The Commission notes that it will continue to accept applications for storage facilities located in underground salt formations during the duration of this exception.

An applicant for an underground hydrocarbon storage facility located in a geological formation other than an underground salt formation shall be required to demonstrate that the proposed storage facility will be created, operated, and maintained in a manner that will prevent waste of stored crude oil, uncontrolled escape of crude oil, pollution of subsurface water, and danger to life or property. *See* 16 Tex. Admin. Code § 3.95(d)(1); *see also* Tex. Nat. Res. Code § 91.202. An application to store crude oil in a formation other than an underground salt formation will need to demonstrate that the formation is confined so as to prevent the waste or uncontrolled escape of crude oil.

In addition to the exception described above, the Commission hereby grants an exception of the hearing requirement, detailed in 16 Texas Administrative Code § 3.95(e)(4), for all applications for underground crude oil storage facilities. This exception is not limited to only those applications for storage in an underground crude oil storage facility located in a geological formation other than underground salt formations. An application for an underground crude oil storage facility will be reviewed by Staff. If Staff administratively approves the application for an underground crude oil storage facility, the application and draft permit will be submitted to the Commissioners for approval on the consent agenda at an open meeting. The applicant is still entitled to a hearing if Staff does not administratively approve the application. A hearing will still be required if the application is protested.

The Commission's grant of these exceptions is intended to be temporary. They are subject to extension or modification as necessitated by the adverse economic and industry condition or as the Commission otherwise determines. This exception shall be effective as of the date of the open meeting, May 5, 2020, and shall remain in effect for one (1) year after the May 5, 2020 effective date, unless this exception is earlier terminated or continued by subsequent Commission action. Moreover, any crude oil stored in a hydrocarbon storage facility located in a geological formation other than an underground salt formation must be removed from the storage facility no later than five (5) years after

**EXHIBIT**

tables

P-4

Temporary Exception to Statewide Rule 95

May 5, 2020

page 2

the May 5, 2020 effective date, unless this exception is earlier terminated or continued by subsequent Commission action.

Signed on May 5, 2020.

RAILROAD COMMISSION OF TEXAS

DocuSigned by:

Wayne Christian

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CHAIRMAN WAYNE CHRISTIAN

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Christi Craddick

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COMMISSIONER CHRISTI CRADDICK

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Ryan Sitton

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COMMISSIONER RYAN SITTON

ATTEST:

DocuSigned by:

Callie Farrar

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Unofficial copy Travis Co. District Clerk Melva L. Price

**Jennifer S. Riggs**  
Certified in Administrative Law  
Texas Board of Legal Specialization  
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**RIGGS & RAY**  
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**Jason Ray**  
Certified in Administrative Law  
Texas Board of Legal Specialization  
jray@r-alaw.com

July 22, 2020

Ms. Velva L. Price  
District Clerk for Travis County District Court  
1000 Guadalupe, Suite 327  
Austin, TX 78701

Via E-Filing

RE: *Public Citizen, Inc., Hugh Fitzsimons, and Molly K. Rooke v. Railroad Commission of Texas, et al.*, Cause No. D-1-GN-20-\_\_\_\_\_, in the \_\_\_\_\_ Judicial District Court of Travis County, Texas;

Dear Ms. Price:

Kindly prepare citations for service of the original petition to the following parties:

**Defendant:**

Railroad Commission of Texas

**Service Address for Railroad Commission of Texas:**

Wei Wang  
Executive Director  
1701 North Congress Avenue  
Austin, TX 78701  
(512) 463-7068  
wei.wang@rrc.texas.gov

**Defendant:**

Wayne Christian

**Service Address for Wayne Christian:**

Wayne Christian  
Chairman  
Railroad Commission of Texas  
1701 North Congress Avenue  
Austin, TX 78701  
(512) 463-7131  
Wayne.Christian@rrc.texas.gov  
or through legal counsel at (512)463-8870  
jeremy.hagen@rrc.texas.gov

**Defendant:**

Christi Craddick

**Service Address for Christi Craddick:**

Christi Craddick  
Commissioner  
Railroad Commission of Texas  
1701 North Congress Avenue  
Austin, TX 78701  
(512) 463-7140  
Christi.Craddick@rrc.texas.gov.

**Defendant:**

Ryan Sitton

**Service Address for Ryan Sitton:**

Ryan Sitton  
Commissioner  
Railroad Commission of Texas  
1701 North Congress Avenue,  
Austin, TX 78701  
(512)463-7144  
Ryan.Sitton@rrc.texas.gov.

Provided with this letter is payment for issuance of the citations. Once the citation has been prepared kindly email to [shussain@r-alaw.com](mailto:shussain@r-alaw.com). Thank you for your assistance.

Sincerely,

*/s/ Shama Hussain*

Shama Hussain

Paralegal